SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 9, 2007

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/275349 patent No.: 6,869,365

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

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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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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON DC 20005-2221

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JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
James R. Mault :
Application No. 10/275,350 : DECISION ON PETITION
Filed: November 4, 2002 : TO WITHDRAW
Attorney Docket No. HTEC-039/02US : 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 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 Cliff Z. Liu on behalf of all attorneys of record who are associated with customer No. 23419.

All attorneys/agents associated with the Customer Number 23419 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There 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: JAMES R. MAULT
1580 BLAKCOMB COURT
EVERGREEN, CO 80401

cc: GEOFFREY STANIFORD
COURTNEY STANIFORD & GREGORY LLP
10001 NORTH DE ANZA BOULEVARD
SUITE 300
CUPERTINO CA 95014

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/275,350	11/04/2002	James R. Mault	MJA-18802/03

CONFIRMATION NO. 7504

OC000000021797769

OC000000021797769

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON, DC 20005-2221

Date Mailed: 12/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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#5

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

In re Application of ERICKSON Application No.: 10/275,353 PCT No.: PCT/US01/40660 Int. Filing Date: 03 May 2001 Priority Date: 03 May 2000 Attorney Docket No.: TH-1550 (KPR-1003US) For: FORMULATION FOR STRIPPABLE ADHESIVE AND COATING FILMS	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Petition to Withdraw Holding of Abandonment" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 19 March 2004. The petition is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 04 November 2003, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 06 February 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 05 March 2003, applicants allegedly filed an executed declaration, in compliance with 37 CFR 1.497(a) & (b).

On 01 March 2004, a Notification of Abandonment was mailed to applicants indicating that applicant had failed to respond to the 06 February 2003 Notification of Missing Requirements.

On 19 March 2004, applicants filed a copy of the response to the Notification of Missing Requirements including a copy of the USPTO mail room date-stamped itemized postcard indicating that a declaration and power of attorney was filed on 05 March 2003.

DISCUSSION

The original declaration filed on 05 March 2003 is not located in the application file. A review of the finance records for 10/273,353 indicates that the $130 surcharge for filing the declaration after the thirty month period was paid on 04 November 2002.

As stated in section 503 of the Manual of Patent Examining Procedure (8th Ed., August 2001)(MPEP):

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

A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 05 March 2003.

The evidence submitted is sufficient to establish that a declaration for this application was received in the USPTO on 05 March 2003. The communication filed 19 March 2004 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 05 March 2003. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies the inventor, and states the residency, citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

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

The copy of the declaration originally submitted on 05 March 2003 and resubmitted on 19 March 2004 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **05 March 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

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OFFICE OF PETITIONS

MORRISON & FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

In re Application of :
BRYANT, et al. :
Application No. 10/275,364 : DECISION ON PETITION
Filed: July 25, 2003 : TO WITHDRAW
Attorney Docket No. **18310US01** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on June 30, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MCANDREWS HELD & MALLOY, LTD**
500 WEST MADISON STREET, SUITE 3400
CHICAGO, IL 60661

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GE HEALTHCARE, INC.
IP DEPARTMENT
101 CARNEGIE CENTER
PRINCETON, NJ 08540-6231

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OFFICE OF PETITIONS

In re Application of :
Audin Tornes et al. :
Application No. 10/275,373 : ON PETITION
Filed: February 10, 2003 :
Attorney Docket No. PA0017 :

This is a decision on the petition filed April 11, 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 6, 2006 for failure to timely pay the issue fee on or before January 5, 2006, in response to the Notice of Allowance mailed October 5, 2005. Accordingly, a Notice of Abandonment was mailed March 28, 2006.

The issue fee, publication fee and petition fee paid on January 9, 2006 have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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)).

07 MAR 2005

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RADAR FISHMAN & GRAUER
1233 20th Street, N.W., Suite 501
Washington, DC 20036

In re Application of
AIZAWA, Hidekumi *et al*
U.S. Application No.: 10/275,405
PCT No.: PCT/JP02/02926
Int. Filing Date: 26 March 2002
Priority Date: 26 March 2001
Attorney Docket No.: SON-2341
For: BAR CODE READING APPARATUS, MOVING MIRROR FOR BAR CODE READING APPARATUS, AND MANUFACTURING METHOD THEREFOR

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This decision is in response to the "Request to Withdraw Erroneous Notice of Abandonment" filed on 10 February 2004. No fee is required.

BACKGROUND

On 02 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 $130.00 surcharge fee pursuant to 37 CFR 1.492(e) was required. A two-month time limit in which to respond was set with extensions of time available.

On 09 January 2003, applicants purportedly filed a response which contained, *inter alia*, an executed declaration and a transmittal letter authorizing the surcharge fee to be charged to Deposit Account No. 18-0013.

On 14 January 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 02 January 2003 within the time period set.

On 10 February 2004, applicants filed the instant petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 09 January 2003 and a stamped postcard receipt for the 09 January 2003 documents.

On 16 December 2004, applicants resubmitted the instant petition which was

accompanied by, *inter alia*, a stamped postcard receipt for the 10 February 2004 petition.

DISCUSSION

It is first noted that the petition filed 10 February was located in the file. As such, the petition submitted on 16 December 2004 is moot and will not be addressed further.

A review of the subject application shows that the 09 January 2003 response purportedly filed in the above-captioned application was not located in the file. Moreover, USPTO financial records indicate that the $130.00 surcharge fee has not been charged in the above-captioned application.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 09 January 2003. The postcard receipt records that among the papers received in the USPTO included a "Declaration/Power of Attorney (3 pages)." The postcard receipt is stamped "OIPE JC98 JAN 09 2003" across its face. The U.S. application number, docket number and name of the applicants are all listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the USPTO on 09 January 2003.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 14 January 2004 is hereby **VACATED**.

The declaration originally filed 09 January 2003 complies with the requirements of 37 CFR 1.497(a) and (b). The $130.00 surcharge fee will be charged to Deposit Account No. 18-0013 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 26 March 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 09 January 2003.

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.: (571) 272-3302

10 JUL 2003
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David S. Resnick
NIXON PEABODY LLP
101 Federal Street
Boston MA 02110

In re Application of
PIRIE-SHEPHERD et al.
Application No.: 10/275,414
PCT No.: PCT/US01/15107
Int. Filing Date: 09 May 2001
Priority Date: 09 May 2000
Attorney Docket No.: 701039-051461
For: METHOD AND COMPOSITION FOR THE TREATMENT OF ANGIOGENESIS

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to the submission filed via facsimile transmission on 01 July 2003, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 09 May 2001, applicants filed international application PCT/US01/15107 which claimed a priority date of 09 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 07 December 2001, prior to nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 November 2002.

On 04 November 2002, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, the basic national fee, an assertion of small entity status, and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 16 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 25 June 2003, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the requirements set forth in the

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 16 April 2003 have not been completed.

On 01 July 2003, applicants filed the instant submission via facsimile transmission, which has been treated as a petition under 37 CFR 1.181. The submission was accompanied by six declarations of inventors.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 13 June 2003 applicants filed the declarations of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a United States Patent and Trademark Office (USPTO) date stamp of 13 June 2003 and which itemize the declarations and identifies the above-captioned docket number and application number. Further, practitioner states that the copies of the declarations filed 01 July 2003 are copies of the declarations originally filed 13 June 2003. Therefore, in view of the date-stamped receipt and practitioner's statement, the declarations received on 01 July 2003 may properly be accepted as originally received in the USPTO on 13 June 2003. The declarations of inventors filed 13 June 2003 are in compliance with 37 CFR 1.497(a)-(b). Accordingly, the NOTIFICATION OF DEFECTIVE RESPONSE mailed 25 June 2003 is hereby VACATED.

DECISION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF DEFECTIVE RESPONSE mailed 25 June 2003 is VACATED for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. 371(c) date of **13 June 2003**.

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

18 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David S. Resnick
NIXON PEABODY
101 Federal Street
Boston, MA 02110

In re Application of :
PIRIE-SHEPHERD, Steven *et al* :
U.S. Application No.: 10/275,414 :
Int. Application No.: PCT/US01/15107 :
Int. Filing Date: 09 May 2001 : **DECISION**
Priority Date: 09 May 2000 :
Attorney Docket No.: 701039-051461 :
For: METHODS AND COMPOSITION FOR THE TREATMENT OF ANGIOGENESIS :

This decision is in response to applicants' "Petition Under 37 C.F.R. 1.10(e)" filed 27 January 2003. No fee is required.

BACKGROUND

On 09 May 2001, applicants filed international application PCT/US01/15107 claiming priority to a United States patent application filed 09 May 2000.

On 11 July 2001, applicants filed various documents in the above-identified international application including a "Letter Regarding Payment US National Fee." These documents were misidentified and used to initiate a national stage application of PCT/US01/15107, which was given a U.S. application No. 10/031,285.

On 30 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notice of Insufficient Basic National Fee Required Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/904) indicating that the basic national fee was not received for U.S. application No. 10/031,285.

On 04 November 2002, applicants filed a transmittal letter for timely entry into the national stage for PCT/US01/15107 which was accompanied by, *inter alia*, a check in the amount of $418.00 for national stage fees. These documents were given a U.S. application No. of 10/275,414. However, this application was suspended because PCT/US01/15107 already had a national stage application (U.S. application No. 10/031,285) in the USPTO system.

On 27 January 2003, applicants filed the instant petition under 37 CFR 1.10(e). Applicants included copies of the documents filed on 04 November 2002. A new

national stage application was created with these papers and designated as U.S. application number, 10/344,284. However, this application was also suspended because it was another national stage of PCT/US01/15107.

DISCUSSION

A review of USPTO records reveal that the application for attorney docket number 2458-4042US2 was located and it was designated as U.S. application number 10/275,414 which was received on **04 November 2002**.

This application was temporarily suspended due to the fact that the international application PCT/US01/15107 already had a national stage filing, which was a mistake. This will be corrected below.

Accordingly, applicants' petition under 37 CFR 1.10(e) is not required.

CONCLUSION

Since the papers filed 04 November 2002 have been located, applicants' petition under 37 CFR 1.10(e) is **DISMISSED** as **MOOT**.

U.S. application No. 10/031,285 and 10/344,284 will be merged into the file of U.S. application No. 10/275,414. U.S. application No. 10/031,285 and U.S. Application No. 10/344,284 will no longer be active U.S. application numbers.

All future correspondence regarding this patent application should be directed to U.S. application No. 10/275,414.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the DO/EO/US for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) is required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

17 DEC 2003

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Terryence F. Chapman
Flynn, Thiel, Boutell & Tanis, P.C.
2026 Rambling Road
Kalamazoo, Michigan 49008-1631

In re Application of
MATSUI et al.
Application No.: 10/275,419
PCT No.: PCT/JP01/04397
Int. Filing Date: 25 May 2001
Priority Date: 25 May 2000
Atty. Docket No.: ISHII C-18
For: ROAD SYSTEM DRAIN SYSTEM AND A DRAINAGE PURIFICATION UNIT

DECISION ON PETITION

This is a response to applicants' "Letter To Patent Office" filed 03 October 2003, which has been treated as a Petition under 37 CFR 1.181 in view of the filing of the translation of the international application on 04 November 2002.

BACKGROUND

On 25 May 2001, applicants filed international application PCT/JP01/04397 which claimed a priority date of 25 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. A Demand was filed with for International Preliminary Examination before the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 29 November 2002.

On 04 November 2002, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee of $890; translation of the international application; and an executed declaration.

On 13 January 2003, the United States Designated/Elected Office (DO/EO/US) mailed 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) which set forth a 35 U.S.C. 371 completion date of 04 November 2002.

On 30 July 2003, United States Designated/Elected Office (DO/EO/US) mailed "Withdrawal of Previously Sent Notice" vacating the Notification of Acceptance mailed 13 January 2003.

On 30 July 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 the translation of the international application was defetive. Specifically, the text in the drawings had not been translated. The notification set a two (2) month period for response.

On 03 October 2003, applicant filed "Letter To Patent Office" which included a translation of the international application.

DISCUSSION

Applicants state in the present petition, "the originally filed drawings have been carefully reviewed and no foreign text has been found." However, a review of the translation of the international application filed 04 November 2002 included foreign text in the drawings. PCT Rule 49.5(d) states, "[i]f any drawing contains text matter, the translation shall be furnished either in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew." (See also section 1893.01(a)(1) of the Manual of Patent Examining Procedure.) In this case, the translation of the international application filed on 08 November 2002 included Japanese Language text on the top left-hand corner of all drawing sheets, which is improper. Therefore, the mailing of the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) on 30 July 2003 was proper and applicants' petition under 37 CFR 1.181 is dismissed without prejudice.

The translation of the international application furnished with the present petition is in compliance with 35 U.S.C. 371(c)(2). Deposit Account no. 06-1382 will be charged a $130.00 processing fee under 37 CFR 1.492(f) for providing an English translation later than 30 months from the earliest claimed priority date.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

This application will be given an international application filing date of 25 May 2001 and a date of **03 October 2003** under 35 U.S.C. 371.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

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.

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

19 JAN 2005

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In re Application of
MATSUI et al.
Application No.: 10/275,419
PCT No.: PCT/JP01/04397
Int. Filing Date: 25 May 2001
Priority Date: 25 May 2000
Atty. Docket No.: ISHII C-18
For: ROAD SYSTEM DRAIN SYSTEM AND A DRAINAGE PURIFICATION UNIT

DECISION ON PETITION

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.181" filed 20 February 2004.

BACKGROUND

On 25 May 2001, applicants filed international application PCT/JP01/04397 which claimed a priority date of 25 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. A Demand was filed with for International Preliminary Examination before the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 29 November 2002.

On 04 November 2002, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee of $890; translation of the international application; and an executed declaration.

On 13 January 2003, the United States Designated/Elected Office (DO/EO/US) mailed 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) which set forth a 35 U.S.C. 371 completion date of 04 November 2002.

On 30 July 2003, United States Designated/Elected Office (DO/EO/US) mailed "Withdrawal of Previously Sent Notice" vacating the Notification of Acceptance mailed 13 January 2003.

On 30 July 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 the translation of the international application was defective. Specifically, the text in the drawings had not been translated. The notification set a two (2) month period for response.

On 03 October 2003, applicants filed "Letter To Patent Office" which included a translation of the international application. In a decision dated 17 December 2003, applicants' petition under 37 CFR 1.181 was dismissed without prejudice.

On 20 February 2004, applicants filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

Applicants state in the present petition, "that all of the requirements of 35 U.S.C. 371 were met on November 4, 2002." Further, applicants state that the Drawing sheets submitted on 04 November 2004 did not contain foreign text, as indicated on the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905). A review of this application file reveals that the purported English translation of the international application filed on 04 November 2002 was not defective. Specifically, the drawings did not contain foreign text. Therefore, the "Withdrawal of Previously Sent Notice"; "Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905)"; and "Decision on Petition" were mailed in error. Accordingly, the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America were completed on 04 November 2002.

Deposit Account no. 06-1382 will be refunded the $130.00 processing fee under 37 CFR 1.492(f) for providing an English translation later than 30 months from the earliest claimed priority date.

CONCLUSION

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

This application will be given an international application filing date of 25 May 2001 and a date of **04 November 2002** under 35 U.S.C. 371.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **04 November 2002** U.S.C. 371(c) and preparation and mailing of a

corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **04 November 2002**.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON MA 02111-2950

COPY MAILED
SEP 1 1 2006
OFFICE OF PETITIONS

In re Application of

MIHALCIK
Application No. 10/275,425
Filed: May 7, 2003
Attorney Docket No. B075/7016

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 May 9, 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 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, "transfer of attorneys responsibility," does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: David Laub
PROSKAUER ROSE LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20036-2396

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 6/16/05

meb
Paper Number: _____

In re application of
Carsten Goergens, et al

Serial No. 10/275,439
Filed: November 6, 2002
For: Magnetron Sputtering

DECISION ON
PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT, filed April 11, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 12, 2004 for failure to timely respond to the Office Action mailed March 2, 2004, be withdrawn. The petitioner asserts that the Office Action mailed March 2, 2004 was not received by the applicants, because the Office mailed the action to the wrong address. The petitioner asserts that a Change of Correspondence Address was filed with the Office on November 6, 2002, which was apparently not properly processed by the Office, as the Office Action of March 2, 2004 was mailed to the incorrect address.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action.

The evidence presented is sufficient to establish that the Office Action was not received by the petitioner. According to Office records, the a Change of Correspondence Address was filed with the Office on November 6, 2002 and was not properly processed and thus the Office Action of March 2, 2004 was mailed to the incorrect address.

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 Office Action to the correspondence address and restarting of the statutory period of response from the remail date thereof. The correspondence address will also be changed in accordance with the papers filed concurrently with this petition.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ADAM C. VOLENTINE
VOLENTINE, FRANCOS & WHITT, P.L.L.C.
11951 FREEDOM DRIVE
SUITE 1260
RESTON, VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/275,461	04/07/2003	John Wood	1714005	2007

7590 04/15/2005

DAVID C. BOHRER
DECHERT LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304-1013

EXAMINER	
KINKEAD, ARNOLD M	

ART UNIT	PAPER NUMBER
2817	

DATE MAILED: 04/15/2005

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

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032005

DAVID C. BOHRER
DECHERT LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304-1013

APR 15 2005

In re Application of:
John Wood
Serial No.: 10/275,461
Filed: April 7, 2003
Attorney Docket No.: 1714005

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

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

A non-final Office action was mailed on September 9, 2004, setting a three-month shortened statutory period for filing a reply. In an apparent absence of receipt of a reply to the non-final Office action, the application was held abandoned and a Notice of Abandonment was mailed on March 16, 2005.

Although no petition or request to withdraw the holding of abandonment has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status in view of the fact that a response was timely filed on March 8, 2005, along with a petition for an extension of time and an amendment. Inconvenience to the applicant is regretted.

The examiner will consider the new claims submitted with the response and an Office action will issue in due course.

Sharon Gibson, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

#4

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

INCYTE GENOMICS INC.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of :
DELEGEANE, Angelo M. *et al* :
Application No.: 10/275,505 :
PCT No.: PCT/US01/14651 :
Int. Filing Date: 04 May 2001 : **DECISION**
Priority Date: 04 May 2000 :
Attorney Docket No.: PI-0085 USN :
For: PROTEASES :

This decision is in response to applicants' "Petition for Name Change of Inventors Under 37 CFR 1.182" filed 16 May 2003 requesting that the Office recognize the name change for two of the co-inventors in the above-captioned application.

BACKGROUND

On 10 March 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 a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) must be provided. Applicants were given two months to respond with extensions of time available.

On 16 May 2003, applicants filed the instant petition which was accompanied by, *inter alia*, a "Response to Notification of Missing Requirements Under 35 U.S.C. § 371"; an executed declaration; two documents titled "Statement Regarding Name Change" signed by each of the inventors whose names had changed; and authorization to charge the required fees of $390.00 to Deposit Account No. 09-0108.

DISCUSSION

Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedure (MPEP) lists the procedures required to change the name of an inventor and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Here, applicants provided two affidavits titled "Statement Regarding Name

Change" recording the name of Narinder K. Chawla and Narinder K. Walia and signed as such by the co-inventor, and another recording the name of Chandra Patterson and Chandra S. Arvizu and signed as such by the co-inventor. These documents are sufficient to satisfy the requirements for a grantable petition.

The $130.00 fee for each petition has been paid.

CONCLUSION

For the reasons listed above, applicants' petitions under 37 CFR 1.182 are hereby **GRANTED**.

The declaration filed with the instant petition complies with the requirements of 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 May 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 16 May 2003.

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

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

07 MAI 2003

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#3

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Christopher R. Lewis
Suite 301
One Westlakes, Berwyn
P.O. Box 980
Valley Forge, PA 19482-0980

In re Application of	:	DECISION ON
TROUT, Richard B.	:	
Application No.: 10/275,511	:	
PCT No.: PCT/US01/13953	:	PETITION
Int. Filing Date: 01 May 2001	:	
Priority Date: 01 May 2000	:	
Attorney's Docket No.: SOI-100US	:	UNDER 37 CFR 1.137(b)
For: METHOD FOR MAKING DUTCHED COCOA	:	

This decision is in response to applicants' "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 04 November 2002.

BACKGROUND

On 01 May 2001, this international application was filed, claiming an earliest priority date of 01 May 2000.

A Demand electing the United States was filed in this international application on 10 October 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 01 November 2002.

On 04 November 2002, applicants filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration was submitted at this time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be

met by the filing of a continuing application; (2) the petition fee as set forth in § 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 this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Applicant's statement that "Such failure to enter the national phase by the thirty month deadline of November 1, 2002 was unintentional" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

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

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PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS		
	Application Number	10/275,515
	Filing Date	April 27, 2001
	First Named Inventor	Rudolf C. BARENDSE
	Art Unit	1761
	Examiner Name	K. Hendricks
	Attorney Docket Number	246152017800

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

Approved 9-22-06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

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

[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:

Client requested transfer

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	Mr. Bryan H. Davidson Nixon & Vanderhye P.C.				
Address	11th Floor 901 North Glebe Road				
City	Arlington	State		Zip	22203-1808
Country	U.S.A.				
Telephone	(703) 816-4026	Email	bhd@nixonvan.com		
Signature	Thomas E. Ciotti				
Name	Thomas E. Ciotti		Registration No.		21,013
Date	August 29, 2006		Telephone No.		(650) 813-5702

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

I hereby certify that this correspondence is being transmitted via facsimile (fax no.571-273-8300) to the USPTO Commissioner for Patents at P.O. Box 1450, Alexandria, VA 22313-1149

Dated: August 29, 2006 Signature: Lindsay D Seydel (Lindsay Seydel)

ps-1091318

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United States Patent and Trademark Office
P.O. Box 1450
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Kirkpatrick & Lockhart Preston Gates Ellis LLP
(FORMERLY KIRKPATRICK & LOCKHART NICHOLSON GRAHAM)
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

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OFFICE OF PETITIONS

In re Application of	:	
Glen Lehman, et al.	:	
Application No. 10/275,521	:	DECISION ON PETITION
Filed: November 5, 2002	:	TO WITHDRAW
Attorney Docket No. B0751/7041	:	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 11, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Kirkpatrick & Lockhart, Preston Gates Ellis, LLP has been revoked by the assignee of the patent application on October 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JASON M. HONEYMAN
WOLF, GREENFIELD & SACKS, PC
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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OCT 1 2004

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Paper No. 9

In re Application of :
Aloys Wobben :
Application No. 10/275,542 : DECISION ON PETITION
Filed: May 6, 2003 :
Attorney Docket No. 970054.424USPC :

This is a decision on the petition to make special filed on July 7, 2003. The petition is based upon the practice described in MPEP §§ 708.02(V) and 708.02(VI). Therefore, no petition fee is required.

The petition is granted.

The petition to make special based upon the practice in MPEP § 708.02(V), "Environmental Quality", is deemed to satisfy all of the requirements therefore. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the next action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3745 is being informed of this decision, and will advise the examiner to take future action consistent therewith.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Seed Intellectual Property Law Group PLLC
701 Fifth Ave.
Suite 6300
Seattle, WA 98104-7092

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27 AUG 2003

Nixon & Vanderhye
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of :
Junger, Shoecraft, and Koon :
Application No. 10/275,548 :
PCT No.: PCT/US01/14694 : DECISION ON PETITION
International Filing Date: 5 August 2001 : UNDER 37 CFR 1.47(a)
Priority Date: 5 December 2000 :
Attorney Docket No.: 723-1350 :
For: METHOD AND APPARATUS FOR ENABLING PURCHASERS OF PRODUCTS TO OBTAIN RETURN INFORMATION AND TO INITIATE PRODUCT RETURNS VIA AN ON-LINE NETWORK CONNECTION

This is a decision on the applicants' petition under 37 CFR 1.47(a) filed 7 July 2003, to accept the application without the signature of joint inventor, Cassandra Shoecraft.

BACKGROUND

On 5 August 2001, applicant filed international application PCT/US01/14694 which claimed a priority date of 5 December 2000 and designated the United States. The thirty-month period for paying the basic national fee in the United States was midnight, 5 June 2003.

On November 7, 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 USC 371(c)(1).

On 6 February 2003, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration. The notification set a two-month time limit in which to respond.

On 7 July 2003, applicant filed the instant petition under 37 CFR 1.47(a), along with a request for an extension of time for reply within the third month.

08/29/2003 SNAJARRO 00000002 141140 10275548
01 FC:1460 130.00 DA

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his behalf and on behalf of the non-signing inventor. Applicant has provided items (1), (3), and (4).

As to item (2), applicant has not properly established that inventor Shoecraft refuses to execute the application. The statement of Sayoko Blodgett-Ford speaks to steps taken by someone other than herself, namely Christy Warner, to contact inventor Shoecraft. Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that relative to a statement as to the refusal of an inventor to join the application ". . . the circumstances of the presentation of the application papers and the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." In this instance, the application papers were presented to inventor Shoecraft by Ms. Warner, therefore; a statement must be provided from Ms. Warner as she has actual knowledge of the circumstances surrounding the presentation of the application papers.

Further, the petition is also deficient as to item (2) above because documentary evidence was not provided relative to inventor Shoecraft's refusal to sign the oath or declaration although the facts, as stated in the petition, indicate that documentary evidence is available. Section 409.03(d) of the MPEP provides that:

> [w]hen there is an express oral refusal, that fact along with the time and place of the refusal must e stated in the statement of facts, When there is an express written refusal a copy of the document evidencing that refusal must be made part of the statement of facts. . .
>
> When it is concluded by 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.

The statement of Ms. Blodgett-Ford indicates that the counsel for inventor Shoecraft sent a written response indicating that inventor Shoecraft did not believe she was required to sign the application papers. Although this may be deemed a constructive refusal to join the application, applicant must still provide a copy of the this letter and any other pertinent documentary evidence that would support applicant's assertion that inventor Shoecraft refuses to join the prosecution of the application.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice.**

Deposit account 14-1140 will be charged $130.00 for the instant petition fee.

Applicant's are hereby afforded TWO (2) MONTHS from the mailed date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by all inventors or (2) a renewed petition satisfying the requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter titled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia, 22313-1450.

Boris Milef
PCT Legal Advisor
Office of PCT Legal Administration

Kenya A. McLaughlin
PCT Detailee
Office of PCT Legal Administration

Telephone (703)305-0010
Facsimile (703) 308-6459

04 NOV 2003

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1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of JUNGER et al	:	
U.S. Application No.: 10/275,548	:	
PCT Application No.: PCT/US01/14694	:	
Int. Filing Date: 08 May 2001	:	DECISION
Priority Date Claimed: 12 May 2000	:	
Attorney Docket No.: 723-1350	:	
For: METHOD AND APPARATUS FOR ENABLING PURCHASERS OF PRODUCTS TO OBTAIN RETURN INFORMATION AND TO INITIATE PRODUCT RETURNS VIA AN ON-LINE NETWORK CONNECTION	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed 27 October 2003.

BACKGROUND

On 08 May 2001, applicant filed international application PCT/US01/14694, which claimed priority of an earlier United States application filed 12 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 22 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 06 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 12 November 2002.

On 07 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 06 February 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 07 July 2003, applicant filed a petition under 37 CFR 1.47(a) along with a declaration.

On 27 August 2003, this Office mailed a decision dismissing the 07 July 2003 petition.

On 27 October 2003, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3), and (4) 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.

In the present case, applicant has sufficiently established that a bona fide attempt was made to present a copy of the application papers to the nonsigning inventor Cassandra Shoecraft for signature (see affidavit of Christy Warner, ¶3). Furthermore, applicant has adequately demonstrated that Shoecraft refuses to sign the application papers. Specifically, Shoecraft (through her appointed counsel) made an express oral refusal to sign the application papers (see affidavit of Sayoko Blodgett-Ford, ¶7). Therefore, it can be concluded with reasonable certainty that Shoecraft refuses to join in the application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 08 May 2001, and a date under 35 U.S.C. 371(c) of 07 July 2003.

As set forth 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 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.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

0 4 NOV 2003

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www.uspto.gov

Cassandra Shoecraft
26601 233rd Avenue SE
Maple Valley, WA 98038

In re Application of JUNGER et al
U.S. Application No.: 10/275,548
PCT Application No.: PCT/US01/14694
Int. Filing Date: 08 May 2001
Priority Date Claimed: 12 May 2000
Attorney Docket No.: 723-1350
For: METHOD AND APPARATUS FOR ENABLING PURCHASERS OF PRODUCTS....

Dear Cassandra Shoecraft:

You are named as a joint inventor in the above-captioned United States national stage 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 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.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 703-308-6614
Facsimile: 703-308-6459

Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

Attorney Docket No.: 723-1350

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-31-06

TO SPE OF : ART UNIT **PETITIONS**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/275566** ___ **Patent No.: 6921754**

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: With regard to the requested change to the "PCT Pub. Date," the requested change to --Nov. 15, 2001-- is appropriate, in view of inspection of the pub date shown on PCT/EP01/04984.

_____ _____

SPE Art Unit

01 FEB 2005

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Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	
Aoki et al.	:	
Application No. 10/275,576	:	DECISION
PCT No.: PCT/JP02/02123	:	
Int. Filing Date: 07 March 2002	:	ON
Priority Date: 08 March 2001	:	
Atty. Docket No.: 111764	:	PETITION
For: Hybrid Vehicle Drive Control Apparatus And Control Method Of Hybrid Vehicle Drive Apparatus...	:	

This is in response to the petition under 37 CFR 1.181 filed on 04 October 2004.

BACKGROUND

This international application was filed on 07 March 2002, claimed an earliest priority date of 08 March 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 19 September 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 08 September 2003.

On 07 November 2002, applicants filed, *inter alia*, the basic national fee.

On 13 February 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 05 March 2003, applicants filed *inter alia* an executed declaration.

On 26 August 2003, applicants filed an additional executed declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 03 October 2003, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that the date of receipt of 35 U.S.C. 371(c)(1), (2) and (4) requirements was 26 August 2003.

DISCUSSION

Petitioner requests that the Notice of Acceptance and the filing receipt be corrected to show a 35 U.S.C. 371(c)(1), (2) and (4) date of 05 March 2003, on the basis that counsel

allegedly filed a response (including a declaration) on 05 March 2003. Inspection of the electronic application file shows that the declaration filed on 05 March 2003 is in fact present. It is noted that the Transmittal Letter filed on 07 November 2002 included authorization to charge fees (such as the surcharge under 37 CFR 1.492(e)) to counsel's deposit account. As such, it would be appropriate to conclude that applicants completed the requirements of 35 U.S.C. 371(c)(1), (2) and (4) on 05 March 2003. Accordingly, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 03 October 2003 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a corrected Notice of Acceptance (Form PCT/DO/EO/903) and filing receipt reflecting its corrected date under 35 U.S.C. 371(c)(1), (2) and (4) of **05 March 2003**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

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

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

14 JUL 2003

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Frederick D. Strickland
E. I. du Pont de Nemours and Company
Legal - Patents
Wilmington, DE 19898

In re Application of	:	
Shin et al.	:	
Application No. 10/275,586	:	DECISION ON
PCT No.: PCT/US00/22729	:	
Int. Filing Date: 18 August 2000	:	PETITION UNDER
Priority Date: 20 August 1999	:	
Atty. Docket No.: TK3450PCT	:	37 CFR 1.137(b)
For: Flash-Spinning Process And Solution	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 07 November 2002.

BACKGROUND

This international application was filed on 18 August 2000 and claimed earliest priority of an application filed on 20 August 1999. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 20 February 2002. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the required reply in the form of the basic national fee.

Regarding requirement (2),the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

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

Counsel's Deposit Account No. 04-1928 is being charged in the amount of $130.00 for the surcharge under 37 CFR 1.492(e), as authorized by the Transmittal Letter filed on 07 November 2002.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371 (c)(1), (2) and (4) is **07 November 2002**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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OFFICE OF PETITIONS

Frederick D. Strickland
E. I. du Pont de Nemuors and Company
Legal-Patents
Wilmington, DE 19898

In re Application of :
Hyunkook Shin, et. al. :
Application No. 10/275,586 : ON PETITION
Filed: November 7, 2002 :
Attorney Docket No. TK-3450 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on July 27, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the final Office action mailed September 27, 2005. A Notice of Abandonment was mailed on April 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $790 filing fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of a previously submitted Amendment and Terminal Disclaimer filed on October 11, 2005. However, a duplicate Terminal Disclaimer and fee of $130 was submitted with the instant petition on July 27, 2006. Since it appears that only one Terminal Disclaimer and fee of $130 was required, the duplicate payment of $130 will be credited to petitioner's deposit account.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 1732.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PETER ROGALSKYJ
ROGALSKYJ & WEYAND
P O BOX 44
LIVONIA, NY 14487-0044

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MAY 2 8 2004

OFFICE OF PETITIONS

In re Application of
Thomas E. Adrian
Application No. 10/275,590
Filed: June 2, 2003
Attorney Docket No. 006.00163 (CU00-02R)

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 application file is being referred to Technology Center AU 1614.

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

30 JAN 2003

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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INCYTE GENOMICS
3160 Porter Drive
Palo Alto, CA 94304

In re Application of :
YUE, Henry *et al* :
Application No.: 10/275,595 :
PCT No.: PCT/US01/14355 : **DECISION**
Int. Filing Date: 03 May 2001 :
Priority Date: 05 May 2000 :
Attorney Docket No.: PF-0772 USN :
For: CYTOSKELETON ASSOCIATED :
PROTEINS :

This decision is in response to applicants' "Petition for Name Change of Inventor Under 37CFR 1.182" ("Pet.") filed on 05 November 2002.

Applicants submitted the instant petition with the national stage papers on 05 November 2002. The joint inventor's name is listed as Jennifer L. Hillman on the international publication, WO 01/85942. Applicants request that the name be changed to Jennifer L. Jackson.

Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedure (MPEP) lists the procedures required to change the name of an inventor and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Counsel states that "[t]his change is requested because of marriage of the inventor and inventor's desire to claim her legal married name. Pet. at ¶ 1. Applicants also included an affidavit recording the name of Jennifer L. Hillman and Jennifer L. Jackson and signed as such by the sole inventor pursuant to section 605.04(c) of the MPEP above. The petition fee of $130.00 has also been paid.

These documents are sufficient to satisfy the requirements for a grantable petition.

CONCLUSION

For the reasons listed above, the petition under 37 CFR 1.182 is **GRANTED**.

However, a signed oath or declaration has not yet been submitted.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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OFFICE OF PETITIONS

In re Patent No. 7,632,507	:	DECISION ON REQUEST FOR
NAKAJIMA et al.	:	RECONSIDERATION OF
Issue Date: December 15, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/275,602	:	NOTICE OF INTENT TO ISSUE
Filed: March 23, 2004	:	CERTIFICATE OF CORRECTION
Atty Docket No. 532842000300	:	

This is a decision on the petition filed on December 22, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred forty-two (942) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **nine hundred forty-five (945) days**.

In the present petition, patentee calculated the B delay incorrectly. In an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is December 22, 2000. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, June 23, 2003. Thus, B delay is 719 days, counting the number of days beginning on June 24, 2006, and ending on June 11, 2008, the day

before the filing of the Request for Continued Examination. See 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.703(b). Furthermore, the A delay and B delay overlap by 157 days (from June 24, 2006 to November 27, 2006).

Accordingly, the patent term adjustment is 945 days (567 days of A delay + 719 days of B delay - 157 days of overlap - 184 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The 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 **nine hundred forty-five (945) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,632,507 B2

DATED: Dec. 15, 2009 **DRAFT**

INVENTOR(S): NAKAJIMA 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 547 days

Delete the phrase "by 547 days" and insert – by 945 days--

Day : Tuesday
Date: 5/18/2010

PALM INTRANET

Time: 14:02:40

PTA Calculations for Application: 10/275602			
Application Filing Date:	03/23/2004	PTO Delay (PTO):	734
Issue Date of Patent:	12/15/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	187
Post-Issue Petitions:	0	Total PTA (days):	945
PTO Delay Adjustment:	398		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
106	05/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	398		
101.5	11/24/2009	PTA 36 MONTHS	167		
101	12/15/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
100	11/13/2009	EXPORT TO FINAL DATA CAPTURE			
99	11/11/2009	FINISHED INITIAL DATA CAPTURE			
98	11/12/2009	DISPATCH TO FDC			
97	11/12/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
93	11/12/2009	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
92	11/12/2009	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
91	10/30/2009	ISSUE FEE PAYMENT VERIFIED			
90	10/30/2009	ISSUE FEE PAYMENT RECEIVED			
89	10/15/2009	WORKFLOW - QUERY REQUEST - FINISH			
88	09/25/2009	PUBS CASE REMAND TO TC			
87	10/02/2009	WORKFLOW - QUERY REQUEST - BEGIN			
86	10/02/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
85	09/24/2009	RECEIPT INTO PUBS			
84	09/24/2009	RECEIPT INTO PUBS			
83	09/14/2009	EXPORT TO INITIAL DATA CAPTURE			
81	09/10/2009	MAIL NOTICE OF ALLOWANCE			
80	09/10/2009	ISSUE REVISION COMPLETED			
79	09/04/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
78	09/04/2009	DOCUMENT VERIFICATION			
77	09/04/2009	EXAMINER'S AMENDMENT COMMUNICATION			

76	09/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	09/04/2009	CASE DOCKETED TO EXAMINER IN GAU			
74	09/04/2009	NOTICE OF ALLOWABILITY			
68	08/25/2009	DATE FORWARDED TO EXAMINER			
67	08/17/2009	AMENDMENT AFTER FINAL REJECTION			
66	05/20/2009	MAIL FINAL REJECTION (PTOL - 326)	14		60
65	05/19/2009	FINAL REJECTION			
61	02/07/2009	DATE FORWARDED TO EXAMINER			
60	01/06/2009	RESPONSE AFTER NON-FINAL ACTION		34	56
59	01/06/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	06/12/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	09/03/2008	MAIL NON-FINAL REJECTION			
55	09/02/2008	NON-FINAL REJECTION			
54	06/12/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	06/12/2008	REFERENCE CAPTURE ON IDS			
52	06/12/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	06/19/2008	DATE FORWARDED TO EXAMINER			
50	06/12/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	06/19/2008	DATE FORWARDED TO EXAMINER			
48	06/12/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		92	43
47	06/19/2008	DISPOSAL FOR A RCE / CPA / R129			
46	06/12/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	06/12/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	06/12/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	12/12/2007	MAIL FINAL REJECTION (PTOL - 326)			
42	12/10/2007	FINAL REJECTION			
40	10/04/2007	DATE FORWARDED TO EXAMINER			
39	10/02/2007	RESPONSE AFTER NON-FINAL ACTION		61	35
38	10/02/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	05/02/2007	MAIL NON-FINAL REJECTION			

34	04/30/2007	NON-FINAL REJECTION			
33	07/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	07/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	07/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	02/22/2007	DATE FORWARDED TO EXAMINER			
29	01/30/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
28	01/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	01/30/2007	CORRESPONDENCE ADDRESS CHANGE			
26	11/27/2006	MAIL RESTRICTION REQUIREMENT	553		13
25	11/22/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
24	09/06/2006	MISCELLANEOUS INCOMING LETTER			
23.7	07/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	07/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	07/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	05/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
20.7	07/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	07/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/03/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18.7	07/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	05/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	04/25/2004	CLEARED BY OIPE CSR			
13	03/23/2004	371 COMPLETION DATE			
12	04/16/2004	APPLICATION RETURN FROM OIPE			
11	04/16/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
10	04/16/2004	APPLICATION RETURN TO OIPE			
8	04/16/2004	APPLICATION DISPATCHED FROM OIPE			
7	04/16/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	03/23/2004	ADDITIONAL APPLICATION FILING FEES			

5	03/23/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/1/05

TO SPE OF : ART UNIT 1731

SUBJECT : Request for Certificate of Correction on Patent No.: 6962647

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

Steven P. Griffin
SPE

1791
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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Fish & Richardson
225 Franklin Street
Boston, MA 02110-2804

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of
Sug-Bae Kim
Application No.: 10/275,617
Filed: April 16, 2003
Attorney Docket No.: 13391-006US1
For: SECURITY SYSTEM USING A TRANSMITTING SIGNAL OF A WIRELESS COMMUNICATION TERMINAL AND A METHOD FOR USING THE SAME

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 2006 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed January 25, 2005, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on April 25, 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed January 25, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of January 25, 2005 is accepted as having been unintentionally delayed.

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. A courtesy copy of this decision will be forwarded to the address listed on the petition for revival; however, until submission of an acceptable Change Of Correspondence Address, all future communications with respect to this application will be mailed only to above-listed correspondence address of record.

The application file is being referred to Technology Center AU 2635.

Telephone inquiries concerning this decision should be directed to the undersigned.

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-6459

cc: John K. Park
Park and Sutton, LLP
3255 Wilshire Blvd., Suite 1110
Los Angeles, CA 90010

UNITED STATES 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 27, 2007

Patent No. : 7108721 B2
Application No : 10/275618
Inventor(s) : Huckle et al.
Issued : September 19, 2006
Title : **TISSUE REGRAFTING**
Docket No. : 00167-438US1 / 02-31-0360

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

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

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

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

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

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

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

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

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

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

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

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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

August 25, 2008

Lee Crews, Ph.D.
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

Patent No.: 7,108,721 B2
Application No.: 10/275,618
Inventor(s): James William Huckle, et al.
Issued: September 19, 2006
Title: **TISSUE REGRAFTING**

Re: Request for Certificate of Correction

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

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

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

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

Attorney's Docket No.: 00167-0438US1 / PT-2367-USNP
S&N Reference No.: 02-31-0360
MIT Ref. No.: 8434

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: James Huckle *et al.*	Art Unit	: 3738
Patent No.	: 7,108,721	Examiner	: Thomas C. Barrett
Issue Date	: September 19, 2006	Conf. No.	: 2739
Serial No.	: 10/275,618	Cust. No.:	26161
Filed	: July 2, 2003		
Title	: TISSUE REGRAFTING		

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST TO ISSUE PATENT TO ASSIGNEE UNDER 37 C.F.R. § 3.81(B)

Applicants hereby request that the above-referenced patent be corrected to add the name of a missing assignee (*i.e.*, Smith & Nephew, Inc.) on the face of the patent.

Applicants state that the assignment of the missing assignee was submitted for recordation as set forth in 37 C.F.R. § 3.11 before the issuance of the above-referenced patent (*see*, attached copy of the Notice of Recordation of Assignment Document). The assignment to the missing assignee is recorded at Reel/Frame 015168/0588. Applicants further state that the failure to include the correct assignee name on PTOL-85B was inadvertent.

Attached with this Request is a copy of a request for a certificate of correction under 37 C.F.R. § 1.323 filed on December 7, 2007.

Applicants request that, if the Request is granted, the file be forwarded to the Certificate of Corrections Branch for issuance of a Certificate of Correction in the above-referenced patent.

The processing fee of $130 for this request is being paid herewith on the EFS by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 00167-0438US1.

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: 9/24/08

Respectfully submitted,

Date: September 24, 2008

Lee Crews, Ph.D.
Reg. No. 43,567

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945

22026385.doc

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SEPTEMBER 24, 2004

PTAS

700117275A

FISH & RICHARDSON P.C.
LEE CREWS
225 FRANKLIN STREET
BOSTON, MA 02110-2804

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 09/23/2004

REEL/FRAME: 015168/0588
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
HUCKLE, JAMES WILLIAM

DOC DATE: 09/09/2003

ASSIGNOR:
ANDERSON, MELISSA

DOC DATE: 05/08/2003

ASSIGNOR:
GOODSHIP, ALLEN E.

DOC DATE: 06/08/2003

ASSIGNEE:
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS, TENNESSEE 38116

SERIAL NUMBER: 10275618
PATENT NUMBER:
TITLE: TISSUE REGRAFTING

FILING DATE: 07/02/2003
ISSUE DATE:

015168/0588 PAGE 2

RNICOL, SUPERVISOR
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

9/23/2004
700117275

Substitute Form PTO-1595
Attorney Docket No.: 00107-438US1
Client's Ref. No.: 02-35-0380; MIT Ref. No.: 8434

RECORDATION FORM COVER SHEET
PATENTS ONLY

Commissioner for Patents: Please record the attached original document(s) or copy(ies).

1. Name of conveying party(ies):
James William Huckle, Melissa Anderson and Allen E. Goodship
Additional name(s) attached? ☐ Yes ☒ No

2. Name and address of receiving party(ies):
Smith & Nephew, Inc.
1450 Brooks Road
Memphis, TN 38116
Additional names/addresses attached? ☐ Yes ☒ No.

3. Nature of conveyance:
☒ Assignment
☐ Merger
☐ Security Agreement
☐ Change of Name
☐ Other:
Execution Date: 9/9/03, 5/8/03, 8/8/03

4. Application number(s) or patent number(s):
If this document is being filed with a new application, the execution date of the application is:
A. Patent Application No(s).: 10/275,618
B: Patent No(s).:
Additional numbers attached? ☐ Yes ☒ No

5. Name/address of party to whom correspondence concerning document should be mailed:
LEE CREWS, PH.D.
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

6. Total number of applications/patents involved: 1

7. Total fee (37 CFR §3.41): $40
☐ Enclosed
☒ Authorized to charge Deposit Account.

8. Deposit Account No.: 06-1050
Please apply any additional charges, or any credits, to our Deposit Account No. 06-1050.

DO NOT USE THIS SPACE

9. Statement and Signature: *To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*

Lee Crews, Ph.D.
Reg. No. 43,567
Name of Person Signing

Signature

September 23, 2004
Date

Total number of pages including coversheet, attachments and document: 5

20943198.doc

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

September 23, 2004
Date of Transmission

Karen Hector
Signature

Karen L. Hector
Typed Name of Person Signing Certificate

09/23/2004 DEMMANU1 00000001 060150 10275618
01 FC:1463 40.00 OP

Attorney Docket No: 00167-438US1

ASSIGNMENT

For valuable consideration, as referred to in the consultancy agreement between Smith & Nephew plc, Royal Veterinary College and Professor Allen E. Goodship dated 30th January 2001, I, ALLEN E. GOODSHIP of foxgloves, Coleman Green Lane, Wheathampstead, Herts, AL4 8ET, United Kingdom, hereby assign to Smith & Nephew, Inc., a corporation of Delaware having a place of business at 150 Minuteman Road, Andover, MA 01810 (USA) and its successors and assigns (collectively hereinafter called "the Assignee"), my entire right, title and interest throughout the world in the inventions and improvements which are subject of an application for United States Patent signed by me, entitled TISSUE REGRAFTING, filed November 7, 2002, and assigned U.S. Serial Number 10/275,618; this assignment including said application, any and all United States and foreign patents, utility models, and design registrations granted for any of said inventions or improvements, and the right to claim priority based on the filing date of said application under the International Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the European Patent Convention, and all other treaties of like purposes; and I authorize the Assignee to apply in all countries in my name or in its own name for patents, utility models, design registrations and like rights of exclusion and for inventors' certificates for said inventions and improvements; and I agree for me and my respective heirs, legal representatives and assigns, without further compensation to perform such lawful acts and to sign such further applications, assignments, Preliminary Statements and other lawful documents as the Assignee may reasonably request to effectuate fully this assignment.

9/9/03
Date

Allen E. Goodship

Witness I (sign and date here) 9/9/03

PAMELA WILLIAMS
Witness I (printed name here)

9/9/03
Witness II (sign and date here)

HELEN BIRCH
Witness II (printed name here)

goodship

Attorney Docket No: 00167-438US1

ASSIGNMENT

For valuable consideration, we, JAMES WILLIAM HUCKLE of Prima Vista, Emerson Close, Swainby, Northallerton, North Yorkshire, United Kingdom, DL63EL and MELISSA ANDERSON of 55 Ellesmere Avenue, Holderness Road, Hull, HU8 9BS, United Kingdom hereby assign to: Smith & Nephew, Inc., a corporation of Delaware having a place of business at 150 Minuteman Road, Andover, MA 01810 and its successors and assigns (collectively hereinafter called "the Assignee"), our entire right, title and interest throughout the world in the inventions and improvements which are subject of an application for United States Patent signed by us, entitled TISSUE REGRAFTING, filed November 7, 2002, and assigned U.S. Serial Number 10/275,618; this assignment including said application, any and all United States and foreign patents, utility models, and design registrations granted for any of said inventions or improvements, and the right to claim priority based on the filing date of said application under the International Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the European Patent Convention, and all other treaties of like purposes; and we authorize the Assignee to apply in all countries in our name or in its own name for patents, utility models, design registrations and like rights of exclusion and for inventors' certificates for said inventions and improvements; and we agree for ourselves and our respective heirs, legal representatives and assigns, without further compensation to perform such lawful acts and to sign such further applications, assignments, Preliminary Statements and other lawful documents as the Assignee may reasonably request to effectuate fully this assignment.

JAMES WILLIAM HUCKLE

5/8/03
Date

WITNESSED BY (I)

RACHEL MANSON
(Printed Name)

5/8/03
Date (must be as above)

(Signature)

WITNESSED BY (II)

NEIL STANFORD
(Printed Name)

5/8/03
Date (must be as above)

(Signature)

MELISSA ANDERSON

6.8.03
Date

WITNESSED BY (I)

GINA DOOTSON
(Printed Name)

6/8/03
Date (must be as above)

(Signature)

20620718.doc

Attorney's Docket No.: 00167-438US1
S&N Reference No.: 02-31-0360
MIT Ref. No.: 8434

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : James Huckle *et al.*
Patent No. : 7,108,721
Issue Date : September 19, 2006
Serial No. : 10/275,618
Filed : July 2, 2003
Title : TISSUE REGRAFTING

Art Unit : 3738
Examiner : Thomas C. Barrett
Conf. No. : 2739

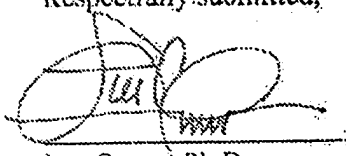
Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REQUEST FOR CERTIFICATE OF CORRECTION

Applicants hereby request that a certificate of correction be issued for the above patent in accordance with the attached request.

One or more of the errors sought to be corrected were made by Applicants. The assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent. The fee in the amount of $100 for processing is being paid herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 00167-438US1.

Respectfully submitted,



Date: December 7, 2007

Lee Crews, Ph.D.
Reg. No. 43,567

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

21752513.doc

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: November 26, 2007

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. .: 7,108,721

APPLICATION NO .: 10/275,618

DATED .: SEPTEMBER 19, 2006

INVENTOR(S) .: JAMES WILLIAM HUCKLE, MELISSA ANDERSON, ALLEN E. GOODSHIP AND VENKATRAM R. SHASTRI

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

Cover page, col. 1, section (73), add a second Assignee – Smith & Nephew, Inc., Memphis TN --.

MAILING ADDRESS OF SENDER:

Lee Crews, Ph.D.
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OCT 15 2008

OFFICE OF PETITIONS

In re Patent No. 7,108,721

Issue Date: September 19, 2006

Application No. 10/275,618

Filed: July 2, 2003

Attorney Docket No. 00167-0438US1/PT2367USNP

ON PETITION

This is a decision on the petition filed September 24, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates 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

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

RICHARD L MAYER ESQ
KENYON & KENYON
ONE BROADWAY
NEW YORK NY 10004

COPY MAILED

APR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Franciscus Herman Maria Bergen, et al. :
Application No.: 10/275,630 : ON PETITION
Filed: November 7, 2002 :
Attorney Docket No.: NL 010100 :

This is a decision on the petition, filed November 3, 2005, requesting withdrawal of the holding of abandonment in the above-identified application. The petition is being treated under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office action of March 31, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 5, 2005. On November 3, 2005, the present petition was filed wherein petitioner asserts that a reply was timely filed on September 30, 2005. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on October 3, 2005 of, *inter alia,* an amendment. A copy of the previously submitted reply accompanies the petition. It is noted that the amendment includes an appropriate request for an extension of time and a proper certificate of mailing under 37 CFR 1.8 dated September 30, 2005.

The papers acknowledged as having been received in the USPTO on October 3, 2005, using a certificate of mailing dated September 30, 2005, are not of record in the application file and have not, to date, been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was timely received in the USPTO but lost after receipt thereof.

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

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on October 3, 2005, using a certificate of mailing dated September 30, 2005.

This application is being referred to Technology Center AU 2621 for appropriate action on the reply received with petition.

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.

Sherry D. Brinkley
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

Richard L Mayer Esq
Kenyon & Kenyon
One Broadway
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Franciscus Herman Maria Bergen	: DECISION ON REQUEST FOR
Patent Number	: 7590178	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/275,630	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **404** 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

NOV - 2 2005

Andrew R. Basile
Young & Basile
Suite 624
3001 West Big Beaver Road
Troy, MI 48084

In re Application of :
Franck Cathala et al. :
Application No. 10/275,631 :
Filed: November 7, 2002 :
For: MODULE FOR EQUIPPING A MOTOR VEHICLE REAR OPENING PANEL

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 January 31, 2005.

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 March 10, 2004, with a Certificate of Mailing dated March 8, 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.

KJD/dgd: 4/5/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ANDREW R BASILE
YOUNG & BASILE
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY, MI 48084

COPY MAILED

FEB 16 2007

OFFICE OF PETITIONS

In re Application of :
Franck Cathala, et al. :
Application No. 10/275,631 : ON PETITION
Filed: November 7, 2002 :
Attorney Docket No. VMF-498-A :

This is a decision in response to the petition, filed July 28, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned on April 10, 2006 for a failure to reply in a timely manner to an Office action mailed January 13, 2006. It is noted that an amendment was filed on July 27, 2006, along with a 3-month petition for extension of time. A Notice of Abandonment was mailed on July 25, 2006. On July 28, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500.00; and (3) the requisite statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted July 27, 2006 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., April 10, 2006. Since no extension of time fees are due on a petition for revival, the extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 3612 for consideration of the amendment filed July 27, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/03/06

TO SPE OF : ART UNIT 3653

SUBJECT : Request for Certificate of Correction on Patent No.: 10275638 69453531

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:

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SPE

3653
Art Unit

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#9

Mark T Garrett
Fulbright & Jaworski
Suite 2400
600 Congress Avenue
Austin, TX 78701

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JUN 1 8 2004
OFFICE OF PETITIONS

In re Application of :
Toshiaki Shimada :
Application No. 10/275,662 : ON PETITION
Filed: November 8, 2002 :
Attorney Docket No. FUJI:002US :

This is a decision on the petition, filed May 28, 2004, to withdraw the above-identified application from issue. The issue fee was timely submitted on June 10, 2004, pursuant to 37 CFR 1.8. Accordingly, the petition is being treated under the provisions of 37 CFR 1.313(c).

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 submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The circumstances of the above-identified application do not fall within any of the exceptions noted above.

This decision is made without prejudice to reconsideration. If reconsideration is desired, a Request for Reconsideration under 37 CFR 1.313(c) must be filed within **ONE MONTH** from the mail date of this decision. No extension of time of this one month time limit can be granted

under 37 CFR 1.136(a) or (b). The Request for Reconsideration must comply with one of the reasons for withdrawal cited in 37 CFR 1.313(c), including all pertinent papers and fees. If a reply is not received within the ONE MONTH time limit, the application will be returned to Publishing Division for processing into a patent. **Applicant is reminded that a petition to withdraw an application from issue must be received and granted prior to the patent issue date.**

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
Office of Petitions
Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 305-4257
ATTN: Office of Petitions

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

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

SPE! D. Bost

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/14/06

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/275,674 Patent No.: 7012783

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: _____

_____

_____

_____

_____

_____ 2627
SPE **Art Unit**

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)
6,805,794	2004-10-19	10/275,688	2002-11-08	GOT 161NP

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

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
○	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
◉	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert H. Berdo, Jr./	Date (YYYY-MM-DD)	2008-11-17
Name	Robert H. Berdo, Jr.	Registration Number	38075

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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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. 6805794
Issue Date: October 19,2004
Application No. 10275688
Filed: November 8,2002
Attorney Docket No. GOT 161NP

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

This is a decision on the electronic petition, filed November 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Peter F. McGee
McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Road - Suite 200
Vienna, VA 22182-3817

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Dennis R. Spicher :
Application No. 10/275,691 : ON PETITION
Filed: March 12, 2003 :
Attorney Docket No. C2483.0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 21, 2006, to revive the above-identified application.

The above application became abandoned for failure to reply to the final Office action mailed May 3, 2006.

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

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee and an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on November 21, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 1714.

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

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JUL 10 2006

OFFICE OF PETITIONS

In re Application of :
Tadashi Koyanagi et al :
Application No. 10/275,705 : ON PETITION
Filed: November 8, 2002 :
Attorney Docket No. 01165.0884 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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 3654 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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17 SEP 2003

Roger E. Gobrogge
Mail Stop C01232
Dow Corning Corporation
2200 West Salzburg Road, P O Box 994
Midland, MI 48486-0994

In re Application of
CLERICI et al.
Serial No.: 10/275,721
PCT No.: PCT/EP01/05512
Int. Filing Date: 11 May 2001
Priority Date: 11 May 2000
Attorney's Docket No.: SN26
For: COATING COMPOSITION

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

This is a decision on applicant's 'Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137 (b)" filed in the United States Patent and Trademark Office on 19 May 2003.

BACKGROUND

On 11 May 2001, applicant filed international application No. PCT/EP01/05512 which claimed priority of an earlier British application filed 11 May 2000.

On 09 November 2001, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 11 November 2002.

On 07 November 2002, applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. §371 authorizing payment of the basic national fee from a deposit account. However, the deposit account number supplied was not found.

On 20 March 2003, a Notification of Abandonment was mailed to applicant indicating that the application was abandoned for failure to provide the full U.S. Basic national fee by the 30 month deadline.

On 19 May 2003, applicant filed a petition to revive with the petition fee of $1300, requesting the withdrawal of the abandonment of the application accompanied by the basic national fee of $900.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "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".

With respect to Items (2) and (3), applicant's statement that "the entire delay in filing the required reply from the due date until the filing of the petition was unintentional" meets the requirements of 37 CFR 1.137(b)(3). The required petition fee of $1300 has also been paid.

With regard to Item (1), a review of the application file reveals that the proper reply has been provided with the payment of the basic national fee of $900. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing including issuance of Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), executed by the inventors and the $130 surcharge for filing the oath or declaration after the 30 month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Matsuo et al.	:	
Application No. 10/275,736	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. 229952US0PCT	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 13, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely and properly reply to the final Office action mailed January 12, 2005. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on June 13, 2005.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $570.00 extension of time fee submitted with the petition on July 13, 2005, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The Notice of Appeal filed July 13, 2005, 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 1700 for further processing.

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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SEP 12 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

David V Carlson
Seed Intellectual Property Law Group
Suite 6300
701 Fifth Avenue
Seattle WA 98104-7092

In re Application of
Aloys Wobben
Application No. 10/275,743
Filed: February 27, 2003
For: **AIRCRAFT BEACON DEVICE ON WIND POWER INSTALLATIONS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed August 18, 2005 pursuant to 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

The petitioner has met 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

20 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

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Gary C. Cohn PLLC
4010 Lake Washington Blvd., NE; Suite 105
Kirkland, WA 98033

In re Application of MATSUMOTO	:	
U.S. Application No.: 10/275,758	:	
PCT Application No.: PCT/JP01/04057	:	
Int. Filing Date: 15 May 2001	:	DECISION
Priority Date Claimed: 19 May 2000	:	
Attorney Docket No.: TSA 014	:	
For: CATALYST FOR ESTERIFICATION AND TRANSESTERIFICATION AND PROCESS FOR PRODUCING ESTER	:	

This is in response to applicant's "Response to Notification of Missing Requirements Under 35 USC 371" filed 11 June 2003, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 15 May 2001, applicant filed international application PCT/JP01/04057, which claimed priority of an earlier Japan application filed 19 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 22 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 07 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 19 November 2002.

On 07 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 14 February 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 11 June 2003, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of the application file reveals that the given name of the inventor is listed in the international application as "Tetsu" while the given name is listed in the declaration as "Satoshi". In that this is clearly more than a mere typographical error or transliteration error, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $130.00 as well as a statement from the inventor and statements from any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered and must also set forth that the mistake was an inadvertent error without deceptive intent. Applicant is advised that a translation error is not equivalent to a typographical error (e.g. "Fujikawa" versus "Fijikawa") or a transliteration error (e.g. "George" versus "Jörg").

The present petition does not include the requisite petition fee and does not include an appropriate statement from the inventor. Furthermore, the statement of Akira Shimoda does not set forth that the mistake was an inadvertent error made without deceptive intent.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 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 1.182" and must include the requisite petition fee and statements discussed above.

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.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Affairs

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

26 APR 2005

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Gary C. Cohn PLLC
4010 Lake Washington Blvd., NE; Suite 105
Kirkland, WA 98033

In re Application of MATSUMOTO	:	
U.S. Application No.: 10/275,758	:	
PCT Application No.: PCT/JP01/04057	:	
Int. Filing Date: 15 May 2001	:	DECISION
Priority Date Claimed: 19 May 2000	:	
Attorney Docket No.: TSA 014	:	
For: CATALYST FOR ESTERIFICATION AND TRANSESTERIFICATION AND PROCESS FOR PRODUCING ESTER	:	

This is in response to applicant's "Petition under 37 CFR §1.182" filed 06 August 2003.

BACKGROUND

On 15 May 2001, applicant filed international application PCT/JP01/04057, which claimed priority of an earlier Japan application filed 19 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 22 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 07 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 19 November 2002.

On 07 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) and an executed declaration.

On 14 February 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 a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 June 2003, applicant filed a petition under 37 CFR 1.182.

On 20 June 2003, this Office mailed a decision dismissing the 11 June 2003 petition.

On 06 August 2003, applicant filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

A review of the application file reveals that the given name of the inventor is listed in the international application as "Tetsu" while the given name is listed in the declaration as "Satoshi". Applicant has submitted a petition under 37 CFR 1.182 along with the requisite petition fee of $130.00 as well as statements from the inventor and the person having firsthand knowledge of the error. These statements set forth the specific circumstances as to how and when the error was made and discovered and also set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 15 May 2001, and a date under 35 U.S.C. 371(c) of 07 November 2002.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Affairs

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

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WWW.USPTO.GOV

Paper No. 4

JOHN S. PRATT
KILPATRICK STOCKTON (CANICA DESIGN INC.)
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

COPY MAILED

SEP 26 2003

OFFICE OF PETITIONS

In re Application of :
Michael T O'Malley et al :
Application No. 10/275,760 : NOTICE
Filed: November 7, 2002 :
Attorney Docket No. 40198/201865 :

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

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

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

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

This file is being forwarded to Technology Center AU 3731.

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

22 MAR 2005

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Mark D. Passler
AKERMAN SENTERFITT
PO Box 3188
West Palm Beach, Florida 33402-3188

In re Application of: VENTURINI, Daniele, et al.	:	
U.S. Application No.: 10/275,774	:	
PCT No.: PCT/EP01/05213	:	DECISION
International Filing Date: 08 May 2001	:	
Priority Date: 09 May 2000	:	
Attorney's Docket No.: 7202-15	:	
For: RING FIXATOR	:	

This decision is issued in response to applicants' statements in the "Response To Notification Of Missing Requirements" filed 27 June 2003, specifically, applicant's statement that the $176 in additional claims fees required by the USPTO were not necessary. No petition fee is required.

BACKGROUND

On 19 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/O/905) indicating that an executed oath or declaration, the surcharge for filing the declaration later than thirty months after the priority date, and $176 in additional claims fees were required. The claims fees were described as follows: "$36 for 4 total claims over 20; $140 for multiple dependent claims."

On 27 June 2003, applicants filed a response to the Notification Of Missing Requirements that included the required declaration and surcharge payment, and the statement considered herein regarding the extra claims fees. The statement asserts that the present application only contains 13 claims (none of which are multiple dependent claims), and therefore asserts that no extra claims fees are required.

Based on a previously filed authorization, the USPTO charged the $176 in extra claims fees to Deposit Account No. 50-0951.

On 23 February 2004, the DO/EO/US mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) and a filing receipt.

DISCUSSION

A review of the application file confirms that the materials filed by applicants to initiate this national stage application on 08 November 2002 included a preliminary amendment. This

preliminary amendment removed the multiple dependency contained in claim no. 13 of the international application. Taking into account the preliminary amendment, this application contains 13 total claims, none of which are multiple dependent claims. Accordingly, the requirement that applicant pay $176 in additional claims fees contained in the Notification Of Missing Requirements mailed 19 June 2003 was in error. Deposit Account No. 50-0951 will be credited with a refund of the $176 in extra claims fees charged herein.

CONCLUSION

That portion of the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 19 June 2003 which required payment of $176 in additional claims fees is hereby **VACATED.**

Deposit Account No. 50-0951 will be credited with a refund of $176.

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

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UNITED STATES DEPARTMENT OF COMMERCE
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SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX, AZ 85004-2202

Mail Date: 04/26/2010

Applicant	: Kazuhiro Niwa	: DECISION ON REQUEST FOR
Patent Number	: 7662612	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/275,783	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **340** 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.

03 MAR 2004

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Robert Burgess
TRANSGENETICS, INC.
28835 Single Oak Drive, Suite 134
Temecula, CA 92590

In re Application of :
BURGESS, Robert M. Jr. *et al* :
U.S. Application No.: 10/275,845 :
PCT No.: PCT/US01/29048 :
Int. Filing Date: 11 September 2001 :
Priority Date: 12 September 2000 :
Attorney Docket No.: None :
For: MICROARRAYED ORGANIZATION OF TRANSCRIPTION FACTOR TARGET GENES :

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

Applicants' "Petition to Revive Under 37 CFR 1.137(b)" filed in the above-captioned application on 20 February 2004 is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of the present grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

20 AUG 2004

#9

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Robert Burgess
TRANSGENETICS INC.
31082 Berkshire Lane
Temecula, CA 92591

In re Application of :
BURGESS, Robert M. Jr. et al :
U.S. Application No.: 10/275,845 :
PCT No.: PCT/US01/29048 :
Int. Filing Date: 11 September 2001 : **DECISION**
Priority Date: 12 September 2000 :
Attorney Docket No.: None :
For: MICROARRAYED ORGANIZATION OF TRANSCRIPTION FACTOR TARGET GENES :

This decision is in response to applicants' "Petition Under 37 CFR 1.47(a)" filed with the United States Designated/Elected Office (DO/EO/US) on 28 July 2004.

BACKGROUND

On 05 March 2004, the 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), a surcharge fee pursuant to 37 CFR 1.492(e) and a sequence listing was required. Applicants were given two months to respond with extensions of time available.

On 19 May 2004, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the response filed 20 February 2004 was defective in regards to the declaration, surcharge fee and sequence listing. Applicants were given one month, or any time remaining in the Notification of Missing Requirements, whichever is longer to respond.

On 28 July 2004, applicants filed the instant petition which was accompanied by, inter alia, the $130.00 petition fee; a $65.00 surcharge fee; a declaration signed by one of the three joint inventors; and copies of letters dated 23 April 2003, 04 September 2003, 27 January 2004, and 22 July 2004.

DISCUSSION

Applicants state that "there was no nucleotide sequences disclosed in the patent application and therefore no correct 'Sequence Listing' according to 37 CFR 1.821(c) is required." The surcharge fee of $65.00 has also been provided.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 19 May 2004 was sent in error. The response filed 20 February 2004 was to revive the above-captioned application. A decision granting this request was mailed 03 March 2004.

Accordingly, the Notification of Defective Response (Form PCT/DO/EO/916) mailed 19 May 2004 is hereby **VACATED**.

Regardless, the time period outlined in the Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 05 March 2004 is still in effect since the response was not filed within one month from the date of the Notification of Defective Response (Form PCT/DO/EO/916).

The response filed 28 July 2004 requires a three-month extension of time and a $465.00 fee. Applicants did not provide any extension fees or authorization to charge the required fees. Therefore, applicants' petition under 37 CFR 1.47(a) will not be considered.

CONCLUSION

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

A proper response must be filed within the time period to respond to the Form PCT/DO/EO/905 mailed 05 March 2004.

It is noted that applicants' petition under 37 CFR 1.47(a) would not have been granted. A statement of facts listing the steps taken to locate the whereabouts of the nonsigning inventors must be provided for a grantable petition under 37 CFR 1.47(a). *See* § 409.03(d) MPEP. Documentary evidence of any search must also be provided.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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Robert Burgess
TRANSGENETICS INC.
31082 Berkshire Lane
Temecula, CA 92591

In re Application of :
BURGESS, Robert M. Jr. et al :
U.S. Application No.: 10/275,845 :
PCT No.: PCT/US01/29048 :
Int. Filing Date: 11 September 2001 : **DECISION**
Priority Date: 12 September 2000 :
Attorney Docket No.: None :
For: MICROARRAYED ORGANIZATION OF TRANSCRIPTION FACTOR TARGET GENES :

This decision is in response to papers filed via facsimile on 20 September 2004.

BACKGROUND

On 28 July 2004, applicants filed a petition under 37 CFR 1.47(a) due to the failure to obtain the signatures of two of the three named joint inventors, Victoria Lunyak and Leonid Noskin.

On 20 August 2004, a decision dismissing applicants' petition as untimely was mailed. The decision noted that the petition required a three-month extension of time and a $465.00 extension fee as a response to the Form PCT/DO/EO/905 mailed on 05 March 2004 which was not provided.

On 02 September 2004, a four-month extension fee of $740.00 for the petition under 37 CFR 1.47(a) was paid in the above-captioned application.

On 20 September 2004, applicant filed a declaration executed by Leonid Noskin.

DISCUSSION

This decision will address only the failure to locate a joint inventor, Victoria Lunyak as petitioner submitted a declaration executed by joint inventor, Leonid Noskin.

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

Concerning item (1), the $130.00 petition fee has been paid.

With regards to item (3), the last known address of the nonsigning joint inventor, Victoria Lunyak is listed as:

8288 Gilman Drive #46
La Jolla, CA 92037

Regarding item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by two of the three joint inventors on behalf of the nonsigning joint inventor. This declaration meets the requirements of section 409.03(a) of the MPEP and is in compliance with 37 CFR 1.497(a) and (b).

Thus, items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), the 37 CFR 1.47(a) applicant claims that the nonsigning joint inventor "cannot be reached for signatures on the Declaration." Applicants' burden in proving that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

> Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of the facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. . . .
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included [*in the*] statement of facts. It is important that the statement contain facts as opposed to conclusions.

In this case, the petitioner has indicated that he has attempted to contact the nonsigning joint inventor on numerous occasions. A copy of letters dated 23 April 2003, 04 September 2003, 27 January 2004 and 22 July 2004 sent to the last known address of Ms. Lunyak were provided as documentary evidence.

Petitioner also claims that "internet and address searches have turned up no updated contact information" for Ms. Lunyak. However, petitioner did not provide any documentary evidence showing that internet and address searches for the nonsigning joint inventor were performed.

Finally, petitioner also states that "upon contacting the last known employer of inventor Lunyak I was informed that she has since relocated from the United States back to Russia." No other information was provided concerning how petitioner received this information such as the name of the person and the former employer. This information should be provided in a statement of facts.

This is not sufficient.

As indicated in the prior decision, a statement of facts listing the steps taken to locate the whereabouts of the nonsigning inventor must be provided for a grantable petition under 37 CFR 1.47(a). Moreover, petitioners must provide documentary evidence showing that a diligent effort was made to locate the nonsigning joint inventor. Here, evidence of internet and address searches should be provided as well as any relevant documentary evidence on Ms. Lunyak's purported move to Russia.

For the reasons noted above, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457;
(571) 372-3302 after 01 October 2004

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Robert Burgess
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31082 Berkshire Lane
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In re Application of :
BURGESS, Robert M. Jr. et al :
U.S. Application No.: 10/275,845 :
PCT No.: PCT/US01/29048 :
Int. Filing Date: 11 September 2001 : **DECISION**
Priority Date: 12 September 2000 :
Attorney Docket No.: None :
For: MICROARRAYED ORGANIZATION OF TRANSCRIPTION FACTOR TARGET GENES :

This decision is in response to papers filed 14 October 2004.

BACKGROUND

On 24 September 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy item (2).

On 14 October 2004, applicants filed a renewed petition which was accompanied by, *inter alia*, a copy of a letter dated 30 August 2004, a copy of a postal receipt and a copy of an email dated 15 August 2004 and a copy of the international application.

DISCUSSION

A review of the papers filed in the instant petition shows that a declaration executed by all three joint inventors was submitted with the PCT Request pursuant to PCT Rules 4.17(iv) and 51*bis*.1(a)(iv)). This declaration is in compliance with 37 CFR 1.497(a) and (b). Accordingly, a petition under 37 CFR 1.47(a) is not required.

Applicants will be refunded the petition fee of $130.00, the surcharge fee of $65.00 and the four-month extension fee of $740.00 paid as a result of the declaration filed in the international application not being matched with the above-captioned national stage application.

The $935.00 refund in fees paid for having no declaration will be sent to Robert Burgess c/o Transgenetics Inc at the address listed at the top of this decision.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 September 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 20 February 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.: (571) 272-3302

22 MAR 2005

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Robert Burgess
Transgenetics Inc.
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In re Application of :
Burgess et al. :
Application No. 10/275,846 :
PCT No.: PCT/US01/24823 :
Int. Filing Date: 08 August 2001 : DECISION
Priority Date: 14 August 2000 :
Atty. Docket No.: N/A :
For: Transcription Factor :
Target Gene Discovery :

This is in response to the papers filed on 25 August 2004, 14 September 2004, 04 November 2004 and on 21 March 2005.

BACKGROUND

This international application was filed on 08 August 2001, claimed an earliest priority date of 14 August 2000, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 08 February 2003. On 08 November 2002, applicants filed *inter alia* the basic national fee.

On 02 October 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of an executed oath or declaration of the inventors, a surcharge under 37 CFR 1.492(e), an initial or substitute computer readable form ("CRF") of the "Sequence Listing," and a statement that the contents of the paper or compact disc and the computer readable form are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).

On 24 December 2003, applicants filed a response.

On 28 June 2004, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, again requiring the submission of an executed oath or declaration of the inventors and an initial or substitute computer readable form ("CRF") of the "Sequence Listing," and further requiring an initial or substitute paper copy or compact disc of the "Sequence Listing," and an amendment directing its entry into the specification.

This international application became abandoned with respect to the National Stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 02 October 2003.1

DISCUSSION

In the papers filed on 14 September 2004, applicants state that

> on July 22, 2004, I officially responded to the Notification of Defective Response, mailed by your office on 06/28/04. Apparently all documentation was lost by your office. I do, however, have proof of receipt, including a return postcard and cashed check for the $130.00 petition filing fee (see the attached). Pursuant to section 37 CFR 1.181, I am filing a petition for lost documentation. Attached is a true copy of all documentation mailed to your office on July 22, 2004...

Attached are a copies of papers including of a check for $130.00, a declaration cover letter, a declaration of the inventors, a sequence listing cover letter, page 1 of a sequence listing, a petition under 37 CFR 1.47(a). On 21 March 2005, applicant filed a copy of a return postcard receipt itemizing the declaration, checks for $65.00 and $130.00, a "petition for unsigned inventors," a computer readable form (CRF) of the sequence listing and "evidence for locating inventors," and stamped as "Rec'd PCT/PTO 26 JUL 2004." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to that practice, the declaration cover letter, a declaration of the inventors, a sequence listing cover letter, page 1 of a sequence listing, and petition under 37 CFR 1.47(a) filed on 14 September 2004 are being accepted as copies of the respective documents originally filed on 26 July 2004.

Petition Under 37 CFR 1.47(a)

Petitioner requests that the absence of the signature of joint inventor Victoria Lunyak be excused pursuant to 37 CFR 1.47(a). A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding requirement (1), the petition fee accompanied the petition, satisfying requirement (1).

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Victoria Lunyak be excused. The petition is accompanied by a copy of an e-mail from Ms. Lunyak to Mr. Robert Burgess, acknowledging her receipt of "some papers form you to sign," but which does not specifically identify said papers. The petition is also accompanied by a postal return receipt addressed to Ms. Lunyak and stamped with a date of "JUL 26 2004," but it is not clear to what correspondence the receipt was attached. The petition is further accompanied by a copy of a letter to Ms. Lunyak, dated 23 April 2004, which refers to an enclosed declaration and requests that Ms. Lunyak sign and return the declaration. Petitioner's attention is respectfully drawn to MPEP 409.03(d), which states in part that

> 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. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration... Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. 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.

Since the petition does not include a showing that Ms. Lunyak refused to execute an oath or declaration after having been presented with a complete copy of the application papers, and since the petition does not allege that Ms. Lunyak cannot be found or reached after diligent effort, requirement (2) has not been satisfied.

Regarding requirement (3), the petition includes a statement the last known addresses of Ms. Lunyak. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the petition is accompanied by declaration documents signed by joint inventors Noskin and Burgess on behalf of themselves and Ms. Lunyak. As such, requirement (4) has been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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United States Patent and Trademark Office

20 MAY 2005

Commissioner for Patents
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Robert Burgess
Transgenetics Inc.
31082 Berkshire Lane
Temecula, CA 92591

In re Application of :
Burgess et al. :
Application No. 10/275,846 :
PCT No.: PCT/US01/24823 :
Int. Filing Date: 08 August 2001 : DECISION
Priority Date: 14 August 2000 :
Atty. Docket No.: N/A :
For: Transcription Factor :
Target Gene Discovery :

This is in response to the papers filed on 29 April 2005.

DISCUSSION

In a decision mailed on 22 March 2005, the previous petition under 37 CFR 1.47(a) was dismissed without prejudice because

> Since the petition does not include a showing that Ms. Lunyak refused to execute an oath or declaration after having been presented with a complete copy of the application papers, and since the petition does not allege that Ms. Lunyak cannot be found or reached after diligent effort, requirement (2) has not been satisfied.

The instant submission includes an executed declaration of all of the inventors which is in compliance with 37 CFR 1.497(a) and (b). As such, the petition under 37 CFR 1.47(a) is now moot.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **29 April 2005**.

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15 JUN 2006

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#11

Robert Burgess
Transgenetics Inc.
31082 Berkshire Lane
Temecula, CA 92591

In re Application of :
Burgess et al. :
Application No. 10/275,846 :
PCT No.: PCT/US01/24823 :
Int. Filing Date: 08 August 2001 : DECISION
Priority Date: 14 August 2000 :
Atty. Docket No.: N/A :
For: Transcription Factor :
Target Gene Discovery :

This is in response to the papers filed on 14 September 2004.

BACKGROUND

This international application was filed on 08 August 2001, claimed an earliest priority date of 14 August 2000, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 08 February 2003. On 08 November 2002, applicants filed *inter alia* the basic national fee.

On 02 October 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of an executed oath or declaration of the inventors, a surcharge under 37 CFR 1.492(e), an initial or substitute computer readable form ("CRF") of the "Sequence Listing," and a statement that the contents of the paper or compact disc and the computer readable form are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).

On 24 December 2003, applicants filed a response.

On 28 June 2004, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, again requiring the submission of an executed oath or declaration of the inventors and an initial or substitute computer readable form ("CRF") of the "Sequence Listing," and further requiring an initial or substitute paper copy or compact disc of the "Sequence Listing," and an amendment directing its entry into the specification.

On 14 September 2004, applicants filed papers seeking to establish that a response was filed on 26 July 2004.

This international application became abandoned with respect to the National Stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 02 October 2003.

DISCUSSION

In a Decision mailed on 22 March 2005, the papers filed on 14 September 2004 were addressed as follows, with respect to the issue of the filing of the response:

> applicants state that
>
> > on July 22, 2004, I officially responded to the Notification of Defective Response, mailed by your office on 06/28/04. Apparently all documentation was lost by your office. I do, however, have proof of receipt, including a return postcard and cashed check for the $130.00 petition filing fee (see the attached). Pursuant to section 37 CFR 1.181, I am filing a petition for lost documentation. Attached is a true copy of all documentation mailed to your office on July 22, 2004...
>
> Attached are a copies of papers including of a check for $130.00, a declaration cover letter, a declaration of the inventors, a sequence listing cover letter, page 1 of a sequence listing, a petition under 37 CFR 1.47(a). On 21 March 2005, applicant filed a copy of a return postcard receipt itemizing the declaration, checks for $65.00 and $130.00, a "petition for unsigned inventors," a computer readable form (CRF) of the sequence listing and "evidence for locating inventors," and stamped as "Rec'd PCT/PTO 26 JUL 2004." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to that practice, the declaration cover letter, a declaration of the inventors, a sequence listing cover letter, page 1 of a sequence listing, and petition under 37 CFR 1.47(a) filed on 14 September 2004 are being accepted as copies of the respective documents originally filed on 26 July 2004.

It should be noted that the 22 March 2005 decision did not accept a copy of the CRF as a copy of the CRF itemized on the return postcard receipt. Further review reveals that no copy of the computer readable form (CRF) of the "Sequence Listing" appears to be present in the application file, and there is no reference to it in the electronic records of the USPTO. As such, it would not be appropriate to conclude that applicants timely replied to the 02 October 2003 Notification of Missing Requirements and the 28 June 2004 Notification of Defective Response. Consequently, this application remains **ABANDONED** with respect to the national stage in the United States.

Counsel may wish to file a copy of the CRF, a copy of the stamped postcard receipt itemizing it, and a statement that the copy of the CRF is a true copy of the CRF itemized on the stamped postcard receipt.

DECISION

This application is **ABANDONED**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

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#13

Robert Burgess
Transgenetics Inc.
31082 Berkshire Lane
Temecula, CA 92591

In re Application of :
Burgess et al. :
Application No. 10/275,846 :
PCT No.: PCT/US01/24823 :
Int. Filing Date: 08 August 2001 : DECISION
Priority Date: 14 August 2000 :
Atty. Docket No.: N/A :
For: Transcription Factor :
Target Gene Discovery :

This is in response to the papers filed on 21 June 2006, which in effect constitute a petition to withdraw the holding of abandonment.

DISCUSSION

A Decision mailed on 15 June 2006 indicated that this international application had become abandoned with regard to the national stage in the United States because

> It should be noted that the 22 March 2005 decision did not accept a copy of the CRF as a copy of the CRF itemized on the return postcard receipt. Further review reveals that no copy of the computer readable form (CRF) of the "Sequence Listing" appears to be present in the application file, and there is no reference to it in the electronic records of the USPTO. As such, it would not be appropriate to conclude that applicants timely replied to the 02 October 2003 Notification of Missing Requirements and the 28 June 2004 Notification of Defective Response. Consequently, this application remains **ABANDONED** with respect to the national stage in the United States.
>
> Counsel may wish to file a copy of the CRF, a copy of the stamped postcard receipt itemizing it, and a statement that the copy of the CRF is a true copy of the CRF itemized on the stamped postcard receipt.

In response, applicant has filed an acceptable computer-readable form (CRF) of the "Sequence Listing." The CRF was accompanied by a copy of a return postcard receipt itemizing it and stamped as "Rec'd PCT/PTO 26 JUL 2004," as well as a statement that the CRF "is a true copy of the CRF sequence listings itemized on the stamped postcard receipt." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Following that practice, the CRF included in the instant submission is regarded as a copy of the CRF originally received in the USPTO on 26 July 2004. Consequently, applicant is regarded as having timely replied to the requirements of the Notification of Missing Requirements mailed on 02 October 2003 and the Notification of Defective Response mailed on 28 June 2004. Therefore, the holding of abandonment is hereby **WITHDRAWN**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **29 April 2005** (the date that a declaration compliant with 37 CFR 1.497(a) and (b) was received).

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08 NOV 2005

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#7

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King of Prussia, PA 19406-0939

In re Application of :
MCKNIGHT et al. :
Application No.: 10/275,852 : DECISION
PCT No.: PCT/GB01/02025 :
Int. Filing Date: 09 May 2001 :
Priority Date: 13 May 2000 :
Attorney Docket No.: P32575 :
For: PROCESS FOR THE PURIFICATION OF A SALT OF CLAVULANIC ACID

This decision is in response to applicants' "Petition to Withdraw Holding of Abandonment" filed 27 October 2005 which is being treated as a Petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 09 May 2001, applicants filed international application PCT/GB01/02025 which claimed a priority date of 13 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 November 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 13 November 2002.

On 12 November 2002, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 13 September 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 21 October 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 13 September 2004 within the time period set therein.

On 27 October 2005, applicants filed "Petition to Withdraw Holding of Abandonment" which was accompanied by: a copy of "Response to Notification of Missing Requirements under 35 U.S.C. 371;" an executed declaration in compliance with 37 CFR 1.497; and petitioner's facsimile confirmation report. Petitioner alleges that the executed declaration was submitted by facsimile on 05 January 2005.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 05 January 2005 under 37 CFR 1.8 is not located in the application file.

37 CFR 1.8(b) states,

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

The evidence filed with the present petition is convincing that the 05 January 2005 response included a declaration with a certificate of facsimile transmission. Additionally, applicant has: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items transmitted on 05 January 2005, (2) supplied copies of the previously mailed correspondence; and (3) has provided a copy of the sending unit 's report confirming transmission on 05 January 2005. The declaration submitted on 27 October 2005 will be considered as a timely response to the Notification of Missing Requirements mailed 13 September 2004; however, the declaration will be given a receipt date of 27 October 2005. (See 37 CFR 1.8(a))

As the declaration was filed after 30 months from the priority date, the required surcharge of $130 under 37 CFR 1.492(h) will be charged to Deposit Account No. 19-2570.

Additionally, a two-month extension of time fee will be charged to Deposit Account No. 19-2570.

CONCLUSION

Therefore, applicants' petition under 37 CFR 1.181 is **GRANTED**.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 09 May 2001 and a date of 27 October 2005 under 35 U.S.C. 371.

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

Anthony Smith

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CLARIANT CORPORATION
Industrial Property Department
4000 Monroe Road
Charlotte, NC 28205

In re Application of :
HAMMES, Alf :
U.S. Application No.: 10/275,855 :
PCT No.: PCT/EP01/05374 :
Int. Filing Date: 11 May 2001 : **DECISION**
Priority Date: 13 May 2000 :
Attorney Docket No.: 2000DE508 :
For: PRODUCTION OF MODIFIED :
CELLULOSE ETHERS COMPRISES :
REACTING CELLULOSE ETHERS :
WITH . . . :

This decision is in response to the "Response to Notification of Defective Response Abandonment" filed 26 May 2004 which is treated as a petition under 37 CFR 1.8. No fee is required.

BACKGROUND

On 23 May 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 a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 23 July 2003, applicants filed a "Response to Notice to File Missing Parts of Application" via facsimile which was accompanied by, *inter alia*, an executed declaration. However, only the front page of the declaration was received by the Office.

On 22 October 2003, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that only the declaration was not in compliance with 37 CFR 1.497(a) and (b) and that the surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) was not provided.

On 30 October 2003, applicants purportedly filed a response which included an executed declaration. This response was not located in the file.

On 04 March 2004, the DO/EO/US mailed a Notification of Defective Response Abandonment (Form PCT/DO/EO/918) because a proper response to the Form PCT/DO/EO/905 mailed 23 May 2003 was not received within the time period set.

On 26 May 2004, applicants submitted the instant petition which was accompanied by, *inter alia*, a copy of the documents purportedly filed via facsimile on 30 October 2003 and a copy of the documents filed via facsimile on 23 July 2003 which included two pages of the declaration.

DISCUSSION

37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

(a)(1) Correspondence will be considered as being timely filed if:

> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
>
> > (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with 1.6(d); and
>
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

A review of the above-captioned application reveals that the purported response received on 30 October 2003 is not located in the file. In addition, USPTO financial records do not indicate that the surcharge fee of $130.00 required by 37 CFR 1.492(e) was paid. It is also noted that the response filed 23 July 2003 located in the above-captioned application contains only the front page of the declaration.

In the instant petition, applicant included a "Transaction Report" from their facsimile machine and a copy of the response purportedly filed 30 October 2003 as proof of responding to the Notification of a Defective Response (Form PCT/DO/EO/916) mailed 22 October 2003. This is insufficient.

As indicated above, a certificate of transmission by facsimile is required to prove that correspondence was timely filed. In this case, there is no certificate required by 37 CFR 1.8(a)(1)(ii) included with the instant petition.

CONCLUSION

Applicants' petition under 37 CFR 1.8 is **DISMISSED** without prejudice.

The subject application remains **ABANDONED**.

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. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.8." No fee is required.

Applicant may also consider filing a petition to revive the above-captioned application pursuant to 37 CFR 1.137(a) or 1.137(b).

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

James Thomson
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28 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#14

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CLARIANT CORPORATION
Industrial Property Department
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Charlotte, NC 28205

In re Application of :
HAMMES, Alf :
U.S. Application No.: 10/275,855 :
PCT No.: PCT/EP01/05374 :
Int. Filing Date: 11 May 2001 : **DECISION**
Priority Date: 13 May 2000 :
Attorney Docket No.: 2000DE508 :
For: PRODUCTION OF MODIFIED :
CELLULOSE ETHERS COMPRISES :
REACTING CELLULOSE ETHERS :
WITH . . . :

This decision is in response to the "Renewed Petition to Withdraw a Holding of Defective Response Abandonment" filed via facsimile on 23 September 2004.

BACKGROUND

On 26 July 2004, a decision dismissing applicants' petition under 37 CFR 1.8 with regards to the purported 30 October 2003 filing via facsimile was mailed.

On 23 September 2004, applicant submitted the instant petition via facsimile.

DISCUSSION

The prior decision dismissed applicant's petition under 37 CFR 1.8 with regards to the purported filing on 30 October 2003. There was no certificate of transmission by facsimile included with the petition as required.

In this petition, applicant claims:

1. The response filed 23 July 2003 was full and complete and contained a 37 CFR 1.8(a) certificate.

2. The 23 July 2003 filing authorized a deposit account charge for the surcharge fee of $130.00. The Notification of Defective response only alleged a lack of page 2 of the inventor's declaration.

3. The fact that the response submitted via facsimile on 30 October 2003 was not located in the file does not mean that it was not sent.

4. The dismissal of the petition under 37 CFR 1.8 with regards to filing on 30 October 2003 "ignores the fact the full and proper July 23, 2003 response included a fax transmission receipt, a 37 CFR 1.8a certificate, as well as the fee payment authorization and the two-page Declaration."

A review of the above-captioned application reveals that only four pages of the 23 July 2003 filing were located in the file, *i.e.*, the first page of the declaration, the cover sheet and a copy of the two-page Form PCT/DO/EO/905 mailed 23 May 2003. Regardless, the cover sheet of the "Response to Notice to File Missing Parts of Application" filed 23 July 2003 included authorization to charge counsel's Deposit Account 03-2060 the $130.00 surcharge fee and included a "Certificate of Mailing/Transmission (37 CFR 1.8a) and 1.10" at the bottom of the page which was signed by Vicki L. Sgro indicating that five pages were submitted via facsimile.

This is sufficient for a grantable petition under 37 CFR 1.8[1].

CONCLUSION

Applicants' petition under 37 CFR 1.8 is hereby **GRANTED**.

The Form PCT/DO/EO/918 mailed 04 March 2004 is hereby **VACATED**.

A complete copy of the declaration was previously submitted on 26 May 2004. This declaration is in compliance with 37 CFR 1.497(a) and (b). The surcharge fee of $130.00 has been charged to Deposit Account 03-2060 as authorized.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 May 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 23 July 2003.

---

[1] 37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

(a)(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with 1.6(d); and

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

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

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MAR 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Berneth et al. :
Application No. 10/275,857 : DECISION ON PETITION
Filed: 2 June, 2003 :
Atty Dcket No. Mo6285/LeA34,386 :

This is a decision on the petition filed on 18 August, 2005, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 4 December, 2004, for failure to timely reply to the final Office action mailed 3 September, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were

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

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

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

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

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

obtained. On 3 December, 2004, an amendment after final rejection was filed. The examiner determined that the amendment did not *prima facie* place the application in condition for allowance, and an Advisory Action Before the Filing of Notice of Appeal was mailed on 28 December, 2004. Notice of Abandonment was mailed on 20 June, 2005.

Petitioner has filed a Request for Continued Examination (RCE) and an amendment as the required reply under 37 CFR 1.114.

This application is being referred to Technology Center 2873 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NES STEWART IRVINE
11918 WESTGATE CIRCLE
OVERLAND PARK KS 66213

COPY MAILED

JUN 30 2008

In re Application of :
Nes Stewart Irvine :
Application No. 10/275,863 : ON PETITION
Filed: April 11, 2003 :
Attorney Docket No. 3005-1008

This is a decision on the petition to withdraw the holding of abandonment filed on June 11, 2008, and in duplicate on June 23, 2008.

The petition is **DISMISSED**.

The record reflects that a final Office action was mailed on July 5, 2007, allowing a shortened statutory period for reply of three months from its mailing date. On September 19, 2007, an amendment after final Office action was filed.[1] An Advisory Action mailed June 9, 2008, explained that the response of September 19, 2007, failed to place the application in condition for allowance. A Notice of Abandonment was mailed on June 16, 2008.

Petitioner maintains the imposition of the holding of abandonment was improper because the amendment was timely filed, yet misrouted, allowing no time within the statutory period for the examiner to provide feedback on the amendment.

It is first noted that the amendment after final was not filed within two months of mailing date of the final Office action, therefore, adjustments that may have been available pursuant to *MPEP* 714.13 are not available in this instance. It further noted that amendments after final rejection are not entered as a matter of right; it is, therefore; critical that that the reply submitted be a proper reply under 37 CFR 1.113. Further, while the Office encourages the examiner to issue the Advisory Action promptly, circumstances may arise that prevent the most expeditious processing of the amendment. The failure of the examiner to meet the ideal processing goal does not excuse the applicant from taking other measures to avoid the abandonment of the application should the examiner determine that the amendment filed does not place the application in condition for allowance. Certainly, applicant could have filed a Notice of Appeal or Request for Continued Examination with the amendment after final with the instruction that the Notice of Appeal or Request for Continued Examination should only be processed in the event that the amendment after final is not entered. Applicants are charged with a filing a proper and timely response to all Office actions issued. If a reply filed by the applicant is determined to be improper, such does not toll any time period running against the application. The holding of abandonment was properly imposed because a proper response to the final Office action was not filed within the maximum statutory period for reply.

The petition is dismissed, accordingly.

---

[1] It is noted that petitioner states that the amendment was filed September 19, 2007, but not received by the examiner until months later. Notwithstanding, the amendment is noted as being received at the USPTO on September 19, 2007.

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 to the final Office action, the required petition fee ($1540.00 for a large entity and $770.00 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.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: FormPTO/SB/64

PTO/SB/64 (01-08)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 2 8 2008

In re Application of

Nes Stewart Irvine

Application No. 10/275,863

Filed: April 11, 2003

Attorney Docket No. 3005-1008

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed July 5, 2007, which set a shortened statutory period for reply of three-months from its mailing date. A proper response was not received within the allowable period and the application became abandoned on October 6, 2007. A Notice of Abandonment was mailed on June 16, 2008.

The Request for Continued Examination filed August 11, 2008, is noted.

The application file is being forwarded to Technology Center 2100, GAU 2173 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
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P.O. Box 1450
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OCT 2 1 2008

MaryAnne Armstrong, PhD
BIRCH, STEWART, KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of	:
KNECHT	:Decision on Petition
Serial No.: 10/275,879	:
Filed : 3 December 2002	:
Attorney Docket No.: 2815-0201P	:

This letter is in response to the Renewed Petition under 37 C.F.R. 1.144 and 1.181 filed on 25 January 2008 requesting reconsideration of the lack of unity requirement mailed 25 September 2007. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national stage of a PCT application and as such is entitled to PCT unity of invention rules.

On 28 June 2005, the examiner set forth a lack of unity requirement which divided the claims 1-40 into 4 groups as follows:

> Group I, claims 25-28, 39, claims 1-3, 24 drawn to a polynucleotide which encodes a multisubstrate deoxyribonucleosie kinase
> Group II,. Claims 4-23, 40 drawn to multisubstrate deoxyribonucleosie kinase
> Group III, claims 29-31, 37, 38 drawn to a method of sensitizing a cell to a prodrug
> Group IV, claims 32-36 drawn to a method of inhibiting a pathogenic agent.

On 28 July 2005, applicants elected Group I, claims 1-3, 24, 25-28 and 39 with traverse.

On 28 October 2005, the examiner considered the traversal and maintained the lack of unity determination. Claims 4-23, 29-38 and 40 were with drawn from examination. Claims 1-3, 24-28 and 39 were rejected under 35 USC 112,1st paragraph for lack of enablement. Claims 1-3, 24-27 and 39 were rejected under 35 USC 102(b) as being anticipated by Black et al. Claims 1-3, 24-27 and 39 were rejected under 35 USC 102(b) as being anticipated by Knecht et al.

On 14 August 2006, the examiner set forth a final Office action in which claims 4-23, 29-38 and 40 were withdrawn from consideration. Claims 1-3, 24-28 and 39 were rejected under 35 USC 112,1st paragraph for lack of enablement. Claims 1-3, 24-27 and 39 were rejected under 35 USC 102(b) as being anticipated by Black et al.

On 16 January 2007, applicants filed a request for continued examination and an amendment which cancelled claims 1-40 and added new claims 41-57 directed to the polynucleotide product.

On 12 April 2007, the examiner set forth a lack of unity determination among claims 41-57 in which applicant was requested to elect a single mutation position and select a single SEQ ID No from the polypeptide sequences of SEQ ID Nos 1, 3 and 5 listed in claim 41.

On 12 July 2007, applicants elected the mutation at position 318 and polypeptide of SEQ ID No 1 with traverse. Applicants also filed claims 59-63 to non-elected process inventions.

On 25 September 2007, the examiner issued an Office action in which the examiner considered the traversal and made the restriction requirement FINAL. Claims 59-63 are withdrawn from consideration by being directed to a non-elected invention. Claims 41-58 were rejected under 35 USC 112, second paragraph. Claims 41-45, 50-57 were rejected under 35 USC 112, first paragraph. Claims 41-45, 50 and 52-57 were rejected under 35 USC 102(a) as being anticipated by Black.

On 25 January 2008, applicants filed a response to the Office action and this petition.

DISCUSSION

The file history and petition have been considered carefully.

The petition clarifies that the election of a single sequence should have been required amongst polynucleotides SEQ ID Nos 2, 4 or 6, as currently claimed and not the polypeptides of SEQ ID Nos 1, 3 or 5. Applicants elected SEQ ID No 1; this now corresponds to SEQ ID No 2.

PCT Rules 13.2 states that:

> **Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.**

The criteria for determining the concept of "contribution over the prior art" is further discussed in Chapter 10 of the International Search and Preliminary Examination Guidelines:

Rule 13.2; AI Annex B, Part 1(b)

> 10.02 Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," is considered with respect to novelty and inventive step. For example, a document discovered in the international search shows that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept.

Applicants argue that the species have unity of invention because they have a common property or activity, in this case, all are mutants of a multisubstrate deoxyribonucleoside kinase with at least 4 fold reduction in the lethal dose of at least one nucleoside as compared to wild type kinase.

Applicants argue that the species have unity of invention because the significant structural feature is shared by all the alternatives.

Applicants argue that the species have unity of invention because they all belong to a recognized class of chemical compounds in the art to which the invention pertains because multisubstrate deoxyribonucleoside kinases have a common homologous base sequence.

Although the chemical compounds of Claim 41 share a common structure of about 70 identical residues (as aligned by Table 1) the common structure is not a significant structural element because it represents only a small portion of the compound structures which are several hundred residues in length. The claim then also permits variation of additional residues at 42 other positions corresponding to positions in SEQ ID Nos 1, 3 and 5. Some of these positions, such as G80, N81, I82, S84, G85, K86, T87, W112, are within the 70 identical residues. One or more mutations may be present in a single protein at one or more of 42 different positions as compared to three reference sequences, directed to 126 items in all. Factorial analysis can be used to show that the number of possible different outcomes for amino acid sequence is immense. By comparison, a factorial of only 70 items represents 1.19 times 10 to the 100 possible outcomes. It is also noted that this analysis has been written as though the claims were directed to the amino

acid sequences themselves. This is not so. The claims are directed to polynucleotide sequences that encode these amino acid sequences. Due to the degeneracy of the nucleic acid code, a much larger number of possible polynucleotide sequences are encompassed by the claim. Moreover the common structure does not constitute a structurally distinctive portion in view of Black et al. Further, the polynucleotides these groups do not belong to a recognized class of chemical compounds. The polynucleotide encode proteins that, as claimed, are required to vary both structurally and functionally wildtype multisubstrate deoxyribonucleoside kinases.

Moreover, PCT Rule 13.2 requires that for unity of invention, the species must share a special technical feature which makes as contribution over the prior art. Chapter 10 of the ISPE Guidelines makes it clear that the contribution must be both in terms of novelty, which corresponds to anticipation under US practice, and inventive step, which corresponds to unobviousness under US practice. The rejection under 35 USC 102 is taken as evidence that the invention is anticipated by the prior art.

Applicants argue that the practice in MPEP 803.02 should be followed. MPEP 803.02 only requires an examiner to move on to the examination of a second and subsequent species when the elected species is in condition for allowance. See this portion of MPEP 803.02:

> Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.
>
> ...If on examination the elected species is found to be anticipated or rendered obvious by prior art, the Markush-type claim and claims to the elected species shall be rejected, and claims to the nonelected species would be held withdrawn from further consideration. A second action on the rejected claims can be made final unless the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). See MPEP § 706.07(a).

At present, claims directed to the elected species are found unpatentable in view of the 35 USC 102 and 112 rejections. As such, the elected species does not make a contribution over the prior art and the examiner is not obliged to extend search and examination to a second or subsequent species.

DECISION

The petition filed under 37 CFR 1.144 on 3 March 2008 is **DENIED**.

The lack of unity determination set forth on 28 June 2005 among the Groups I-IV has been maintained.

The lack of unity determination set forth on 12 April 2008 to elect a single sequence and a single point mutation has been maintained.

The application will be forwarded to the examiner to consider the papers filed 25 January 2008 and to prepare an Office action consistent with this petition decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

Remy Yucel
Director, Technology Center 1600

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Joseph J. Ruch
Sughrue Mion
2100 Pennsylvania Avenue N.W.
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In re Application of :
FUJII et al. :
Application No.: 10/275,882 : DECISION ON PETITION
PCT No.: PCT/JP01/03863 :
Int. Filing Date: 09 May 2001 :
Priority Date: 09 May 2000 :
Attorney Docket No.: Q72519 :
For: DERMAL COMPOSITIONS CONTAINING COENZYME Q AS THE ACTIVE INGREDIENT

This decision is in response to applicant's "Petition to Withdraw from Abandonment" which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 09 May 2001, applicants filed international application PCT/JP01/03863 which claimed a priority date of 09 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 November 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 09 November 2002.

On 12 November 2002, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a translation of the international application; and a preliminary amendment.

On 07 April 2003, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 15 October 2004, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 07 April 2003 within the time period set therein.

On 12 November 2004, applicants filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) filed 31 March 2003; post card receipt dated 31 March 2003; and a copy of a check in the amount of $130.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 31 March 2003. A review of the present application reveals that the declaration and power of attorney filed 31 March 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

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

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, application number; and attorney docket number. The receipt itemizes declarations executed by the joint-inventors. The receipt is stamped "OIPE 31 MAR 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 31 March 2003.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 09 May 2001 and a date of **31 March 2003** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego CA 92122

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SEP 10 2008

In re Application of
Acloque, et al.
Application No. 10/275,906
Filed: January 15, 2003
Attorney Docket No. 37991-0011

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned August 22, 2007 for failure to timely submit a proper reply to the non-final Office action mailed May 21, 2007. The non-final Office action set at three month shortened statutory period of time for reply. Notice of Abandonment was mailed February 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a continuing application under 37 CFR 1.53(b); (2) the required petition fee; and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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 practitioner herein has been empowered to represent the instant application. Moreover, the correspondence address indicated in the instant petition differs from

that currently of record. If practitioner desire to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office. Please be advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/984,835.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: SUSAN DADIO
BURNS, DOANE, SWECKER
& MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313

07 MAR 2005

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Eighth Floor
1100 North Glebe Road
Arlington, VA 22201-4714

In re Application of	:	
BERNARDS, Rene, et al.	:	
U.S. Application No.: 10/275,914	:	DECISION ON
PCT No.: PCT/GB01/02099	:	PETITION UNDER
International Filing Date: 14 May 2001	:	37 CFR 1.182
Priority Date: 12 May 2000	:	
Attorney's Docket No.: 620-222	:	
For: ASSAY FOR CELL CYCLE MODULATORS	:	

This decision is issued in response to the "Petition To Withdraw The Holding Of Abandonment Under 37 CFR 1.181(a)" filed 18 October 2004 (treated as a petition under 37 CFR 1.182) and resubmitted 13 January 2005. Deposit Account No. 14-1140 will be charged the $130 petition fee.

BACKGROUND

On 14 May 2001, applicants filed international application PCT/GB01/0099 which claimed a priority date of 12 May 2000 and which designated the United States. On 15 November 2001, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 07 December 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of a copy of the international application (unless previously communicated by the IB) and payment of the basic national fee was extended to expire 30 months from the priority date, i.e., 12 November 2002.

On 12 November 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, the basic national fee.

On 19 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and sequence listing materials were required.

On 05 October 2004, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States for failure to respond to the Notification Of Missing Requirements.

On 18 October 2004, applicants filed the petition to withdraw the holding of abandonment considered herein. In the petition, applicants assert that they timely submitted the materials required by the Notification Of Missing Requirements. Specifically, applicants assert that a declaration was filed on 08 January 2003, and that the required sequence listing materials were filed on 21 April 2003. However, applicants note that both of these submission were submitted under an incorrect application number (10/279,914).

On 13 January 2005, applicants resubmitted the petition, noting that the 18 October 2004 petition had also been directed to an incorrect application number (10/279,914).

DISCUSSION

Where, as here, materials have been filed under the wrong application number, a grantable petition under 37 CFR 1.182 is required to confirm the previous submissions and to have such submissions treated as having have been filed in the present application on the respective filing dates (as required to withdraw the holding of abandonment). Such a petition requires: (1) payment of the petition fee; (2) the presence in the earlier submissions of an adequate reference to the correct application, and (3) evidence confirming the previous submissions (including copies of such materials). As discussed below, applicants here have not fully satisfied item (3).

In order to confirm the purported 08 January 2003 and 21 April 2003 submissions, applicants have provided copies of return postcards itemizing the materials filed by applicants on 08 January 2003 and 21 April 2003 and bearing USPTO receipt stamps for the respective dates, as well as copies of materials which appear to correspond to items filed on 08 January 2003 and 23 April 2003. With respect to the declaration filed on 08 January 2003, the original submission has been located and transferred to the present application file. This document bears a USPTO receipt stamp dated 08 January 2003, confirming the asserted filing date. The 08 January 2003 filing of the declaration is therefore confirmed. However, the original materials filed 21 April 2003 have not been located, and the present petition does not include a statement confirming that the attached sequence listing materials are true copies of the materials filed 21 April 2003. Moreover, the petition does not include a copy of the required CRF of the sequence listing.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice. The application remains abandoned.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mail date of the present decision. Any such submission should be entitled "Renewed Petition Under 37 CFR 1.182" and should include the materials required to confirm the 21 April 2003 submission, that is, a copy of the previously filed materials (including the CRF of the sequence listing), ac opy of the stamped return postcard, and a statement that such materials are true copies of the materials originally filed on 21 April 2003.

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

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

14 APR 2005

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Eighth Floor
1100 North Glebe Road
Arlington, VA 22201-4714

In re Application of:	:	
BERNARDS, Rene, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/275,914	:	PETITION UNDER
PCT No.: PCT/GB01/02099	:	37 CFR 1.182
International Filing Date: 14 May 2001	:	
Priority Date: 12 May 2000	:	
Atty Docket No.: 620-222	:	
For: ASSAY FOR CELL CYCLE MODULATORS	:	

In a decision mailed 07 March 2005, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment was treated as a petition under 37 CFR 1.182 and dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had not adequately confirmed the contents of the 21 April 2003 filing and had not submitted a replacement copy of the CRF originally filed 21 April 2003.

On 29 March 2005, applicants filed the renewed petition considered herein. The renewed petition includes copies of the sequence listing materials originally filed 21 April 2003 (including the CRF of the sequence listing), a statement from counsel confirming that these are true copies of the materials filed 21 April 2003, and a copy of the return postcard that itemizes these materials and bears a USPTO receipt stamp dated 21 April 2003. Applicant has now submitted all the requirements for a grantable petition under 37 CFR 1.182.

The renewed petition under 37 CFR 1.182 is **GRANTED**.

The declaration filed by applicant on 08 January 2003 will be treated as having been filed in the present application on 08 January 2003.

The sequence listing materials filed by applicant on 21 April 2003 (copies of which are attached to the present renewed petition), including the CRF of the sequence listing, will be treated as having been filed in the present application on 21 April 2003 as a timely response to the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 19 February 2003.

The Notification Of Abandonment (Form PCT/DO/EO/905) mailed 05 October 2004, based as it was on applicants' purported failure to file a timely response to the Notification of Missing Requirements, is appropriately **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 08 January 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

MAIL

SEP 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
David Chamberlin :
Application No. 10/275927 : DECISION ON REQUEST TO
Filed: May 22, 2003 : WITHDRAW AS ATTORNEY
For: **METHOD FOR IMPROVING BANDWIDTH EFFINCIENCY** :

This is a decision on the Request to Withdraw as Attorney/Agent of record received January 13, 2004.

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

The Request to Withdraw as Attorney/Agent is **DISMISSED AS MOOT**.
Revocation/ Power of attorney filed April 14, 2004.
All Attorneys/agents associated with Customer Number 22862 are withdrawn.
Attorney requesting withdraw is no longer of record.

All future communications from the Office will continue to 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

HICKMAN PALERMO TROUNG & BECKER LLP
1600 WILLOW STREET
SAN JOSE, CA 95125-5106

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NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Kukla et al. :
Application No. 10/275,931 : DECISION ON PETITION
Filed: 8 November, 2002 :
Atty Docket No. JAB1604 :

This is a decision on the petition filed on 18 July, 2005,[1] under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

---

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

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

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

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

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

The application became abandoned on 29 October, 2004, for failure to timely reply to the Office action requiring restriction or election mailed on 28 September, 2004, which set a one (1) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 24 June, 2005.

Petitioners have submitted an election as the required reply.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is being referred to Technology Center 1600 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF THE DIRECTOR
TC 3600

JEAN M. MACHELEDT
501 SKYSAIL LANE
SUITE B100
FORT COLLINS CO 80525-3133

In re application of
Steven C. Main et al.
Application No. 10/275,936
Filed: November 8, 2002
For: AID FOR LIFTING AND CARRYING A MASS/OBJECT

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

This is a decision on the petition submitted on November 8, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section III: Applicant's Health and/or Section IV: Applicant's Age. The delay in deciding this petition is regretted.

The petition is **GRANTED**.

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

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

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

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

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

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

KJD/mjz: 4/8/04

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Jean M. Macheledt
501 Skysail Lane, Suite B1000
Fort Collins, CO 80525-3133

In re Application of:
Steven C. Main et al.
Serial No. 10/275,936
Filed: November 8, 2002
For: AIDE FOR LIFTING AND CARRYING A MASS/OBJECT

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

This is a decision on the petition filed November 8, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health, and Section IV: Applicant's Age. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

The petition includes a medical certificate from the applicant's doctor dated November 5, 2002 attesting to the fact that the state of health of James R. Bennett is such that he might not be available to assist in the prosecution of his patent application if it were to run its normal course. It is therefore clear from the evidence that the applicant might not be able to assist in the prosecution of the application due to his health if said prosecution were to run it's normal course.

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

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

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.

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

KJD/vdb: 5/13/03

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1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

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OFFICE OF PETITIONS

In re Application of	:	
Aubry et al.	:	
Application No. 10/275,938	:	DECISION ON PETITION
Filed: August 21, 2003	:	
Attorney Docket No. 09469/107001; 94.0035	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 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 Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

This matter is being referred to Technology Center 2155 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

SCHLUMBERGER INFORMATION SOLUTIONS
5599 SAN FELIPE, SUITE 1208
HOUSTON, TX 77056

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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 to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. 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, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

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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NEW YORK NY 10016

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OFFICE OF PETITIONS

In re Application of
Robert Schlechter et al
Application No. 10/275,940
Filed: November 8, 2002
Attorney Docket No. 244.1019

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 2008, 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 March 14, 2007 mailed , is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3723 for appropriate action by the Examiner in the normal course of business on the reply received September 19, 2008.

Karen Creasy
Petitions Examiner
Office of Petitions

07 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Norman F. Oblon
Oblon Spivak McClelland Maier & Nuestadt
Fourth Floor
1755 Jefferson Davis Highway
Arlington, VA 22202

In re Application of	:	
TAKEMURA et al.	:	
Application No.: 10/275,972	:	DECISION ON PETITION
PCT No.: PCT/JP01/02761	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 30 March 2001	:	
Priority Date: 31 March 2000	:	
Attorney Docket No.: 230696US0PCT	:	
For: QUINOLONECARBOXYLIC ACID DERIVATIVES	:	

The petition to revive under 37 CFR 1.137(b) filed 19 November 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $890 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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SEP 20 2006

OFFICE OF PETITIONS

In re Application of :
Haines, et al. :
Application No. 10/275,996 : DECISION ON PETITION
Filed: June 5, 2003 : TO WITHDRAW
Attorney Docket No. 21534-001NATL : 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 15, 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 there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on June 15, 2006.

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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: David Haines
4 Wynde Cliff Park
Bloomfield, CT 06002-2142

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AND POPEO, P.C.
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OFFICE OF PETITIONS

In re Application of :
David Haines, et al. :
Application No. 10/275,996 : DECISION ON PETITION
Filed: June 5, 2003 : TO WITHDRAW
Attorney Docket No. 21534-001NATL : 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 11, 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 Ingrid A. Beattie on behalf of all attorneys of record who are associated with customer No. 30623.

All attorneys/agents associated with the Customer Number 30623 have been withdrawn.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: David Haines
4 Wynde Cliff Park
Bloomfield, CT 06002-2142

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/275,996	06/05/2003	David Haines	21534-001 Natl

CONFIRMATION NO. 8847

OC000000021069034

OC000000021069034

30623
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Date Mailed: 11/01/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/11/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OPA (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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Charles N J Ruggiero
Ohlandt Greeley Ruggiero & Perle
10th Floor
One Landmark Square
Stamford CT 06901-2682

Applicant: Blase et al.
Appl. No.: 10/276,010
International
Filing Date: May 7, 2001
Title: DISCOID FILTRATION BODY
Attorney Docket No.: 608.0015USU
Pub. No.: US 2003/0150794 A1
Pub. Date: August 14, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on November 7, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the **Notice of Publication of Application** for the instant application contains the wrong filing date and the first named inventors's last name is misprinted as Blase and it is supposed to be Bläse.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**[1]

The request for corrected publication received on November 7, 2003, was not timely filed under 37 CFR 1.221(b).

If the corrected publication request was timely filed, the errors filing date and the misspelled name on the front page of the publication would not have been considered material errors, as required by 37 CFR 1.221(b).

The Office correctly published the application in accordance with 37 CFR 1.215(a) with an international filing date of May 7, 2001. The Notice of Publication of Application, which is not the patent application publication correctly listed the "Filing or 371(c) Date" as March 13, 2003. March 13, 2003 is the date of completion of the 371(c) requirements, it is not the filing date of the application. The application as originally filed on November 12, 2002, did not include a signed copy of the declaration, as required. Since applicant supplied a copy of the signed declaration on March 13, 2003, that became the "filing date" of the application, which is the date of completion of the 371(c) (1), (c)(2) and (c)(4) requirements. The Notice of Acceptance of

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

Application under 35 U.S.C. 371 and 37 CFR 1.495, mailed on April 30, 2003 listed the 371 Date of Receipt as March 13, 2003 and gave the reason for the later date.

The instant request identifies a minor typographical error in the last name of the first named inventor wherein Bläse is misprinted as Blase, which is not a material mistake because the technical disclosure and the claims are understandable. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The Notification of Missing Requirements Under 35 U.S.C 371 in the United States Designated/Elected Office (DO/EO/US) mailed on February 10, 2003 and the Notice of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495, mailed on April 30, 2003 both listed the first named inventor as "Blase" not Bläse. To avoid this type of error in the future, applicant should make a request for a corrected filing receipt.

Applicant's request for a corrected patent application publication on November 7, 2003, 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(a), should be submitted via the EFS system and questions should be addressed as follows:

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

By facsimile: 703-872-9306

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

Enclosure: Corrected Filing Receipt

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CONLEY ROSE, P.C.
DAVID A. ROSE
P. O. BOX 3267
HOUSTON, TX 77253-3267

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OFFICE OF PETITIONS

In re Application of
SELJESETH, Kurt
Application No. 10/276,017
Filed: May 5, 2003
Attorney Docket No. **2181-00100**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed June 5, 2006 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $795 extension of time fee submitted with the petition on October 31, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to the Technology Center Art Unit 2155.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

03 JUN 2004
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Fuess & Davidenas
17258 Amarillo Road
Ramona, CA 92065

In re Application of VIIRRE et al	:	
U.S. Application No.: 10/276,018	:	
PCT Application No.: PCT/US02/03866	:	DECISION
Int. Filing Date: 05 February 2002	:	
Priority Date Claimed: 05 February 2001	:	
Attorney Docket No.: SD 2000-065	:	
For: EEG FEEDBACK CONTROLLED SOUND THERAPY FOR TINNITUS	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 06 May 2004.

BACKGROUND

On 05 February 2002, applicant filed international application PCT/US02/03866, which claimed priority of an earlier United States application filed 05 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 15 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 05 August 2003.

On 12 November 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 March 2003, the DO/EO/US mailed a Notice of Insufficient Basic National Fee (Form PCT/DO/EO/904).

International application PCT/US02/03866 became abandoned as to the United States for failure to timely pay the basic national fee.

On 06 May 2004, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

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

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

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

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

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

CONCLUSION

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

27 MAR 2008

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Nixon & Vanderhye, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of
INZE et al.
Serial No.: 10/276,032 :
PCT No.: PCT/IB01/01307 :
Int. Filing Date: 14 May 2001 : DECISION ON PETITION
Priority Date: 12 May 2000 :
Atty. Docket No.: BJS-4982-2 :
For: NUCLEIC ACID MOLECULES :
ENCODING PLANT CELL CYCLE :
PROTEINS AND USES THEREFOR :

This decision is issued in response to applicant's "Petition to Withdraw Holding of Abandonment of October 5, 2003 Due to PTO Loss of June 23, 2003 Submission or, in the Alternative under Rule 37 CFR 1.137(b) for Unintentional Abandonment" filed 25 July 2007, which is being treated as a Petition under 37 CFR 1.182, as explained below.

BACKGROUND

On 14 May 2001, applicant filed international application no. PCT/IB01/01307 which claimed a priority date of 12 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 November 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 12 November 2002.

On 12 November 2002, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a computer readable form (CRF) of the sequence listing in accordance with 35 U.S.C. 1.821-1.825; and a preliminary amendment.

On 16 December 2002, applicant filed an executed declaration.

On 13 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating declaration in compliance with 37 CFR 1.497(a) and (b) was required. Furthermore, the Notification stated that the sequence listing was not in compliance with 37 CFR 1.821-1.825 in that a copy of the "sequence listing" in computer readable form does not comply with requirements of 37 CFR 1.822 and/or 1.832.

On 21 March 2003, applicant filed "Statement under 37 CFR 1.825(a) and (b)."

On 02 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the "nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reasons: A computer readable that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d)."

On 05 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 02 June 2003 within the time period set therein.

On 25 July 2007, applicant filed "Petition to Withdraw Holding of Abandonment of October 5, 2003 Due to PTO Loss of June 23, 2003 Submission or, in the Alternative under Rule 37 CFR 1.137(b) for Unintentional Abandonment" which included a Statement under 37 CFR 1.821(e) with a paper copy and a computer readable form of the sequence listing.

On 13 August 2007, the PALM Database indicated that a compliant computer readable form (CRF) had been submitted.

DISCUSSION

The above-identified application was held abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 13 February 2003, in that, the sequence listing in computer readable form had not been submitted within the period set therein. Applicant states in their present petition that "the former attorney responded to the Notification of Defective Response on June 26, 2003 and that response was received by the Patent Office on July 1, 2003. The papers filed June 26, 2003 (mis)identified the application as Serial no. 10/279,032." Applicants further contend that the 26 June 2003 submission should have been forwarded to the appropriate application, as a previous submission, or returned to counsel. The Office applied the submission to the application listed on the caption and was not returned to counsel since the papers identified a patent application.

As noted by applicant, the transmittal letter used in the 26 June 2003 reply was directed to the wrong application file, 10/279,032. A review of application file 10/279,032 has uncovered the materials filed by applicant on 26 June 2003. The present petition has therefore been treated in part as a petition under 37 CFR 1.182 to correct the incorrect application number on the transmittal letter. Based on this correction, the materials filed on 26 June 2003 are considered to have been filed in the present application, 10/276,032. Such materials have been moved into the present application file.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**. The misidentified papers filed 26 July 2003 directed to U.S. Application 10/279,032 will be treated as filed in the instant application.

The petition under 37 CFR 1.137(b) is **DISMISSED** as moot.

The Notification Of Abandonment mailed on 05 October 2004 is hereby **VACATED**.

This application has been forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

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26 SEP 2003

John W. Renner, Esq.
Renner, Otto, Boisselle & Sklar
1621 Euclid Avenue, 19th Floor
Cleveland, OH 44115

In re Application of	:	
Moebus	:	
Application No. 10/276,036	:	DECISION ON
PCT No.: PCT/EP00/05252	:	
Int. Filing Date: 07 June 2000	:	PETITION UNDER
Priority Date: 16 May 2000	:	
Atty. Docket No.: TURK.P0124US	:	37 CFR 1.182
For: Panels With Coupling Means	:	

This is in response to the "letter" filed on 30 January 2003, forwarding a corrected Transmittal Letter identifying the instant application as "PCT/EP00/05252" rather than "PCT/EP00/05072" as indicated in the Transmittal Letter filed 11 November 2002. This communication has been treated as a petition under 37 CFR 1.182. It is also noted that a subsequent "Letter" was filed on 13 February 2003, that was not signed by a registered attorney or agent. 37 CFR 1.36. Accordingly, that communication will not be considered herein.

10/03/2003 SNAJARRO 00000156 180988 10276036

01 FC:1460 130.00 DA

BACKGROUND

This international application was filed on 07 June 2000, claimed an earlier priority date of 16 May 2000, and designated the U.S. A Demand electing the United States appears to have been filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 16 November 2002.

On 11 November 2002, applicants filed a Transmittal Letter accompanied by, *inter alia*, the basic national fee. The Transmittal Letter identified the international application to which it was directed as PCT/EP00/05072, rather than international application number PCT/EP00/05252.

DISCUSSION

Counsel requests, in effect, entry of a "corrected" Transmittal Letter filed on 30 January 2003 (bearing international application number PCT/EP00/05252) and treatment of this application as a national stage under 35 U.S.C. 371 of international application number PCT/EP00/05252, rather than international application number PCT/EP00/05072 as identified on the Transmittal Letter. Review of the record reveals that the submission filed on 11 November 2002 adequately identified the international application it was directed to as PCT/EP00/05252. Specifically, international application number PCT/EP00/05252 appears on the preliminary amendment filed on 11 November 2002, and the other identifiers appearing on

the Transmittal Letter match the respective data for PCT/EP00/05252. Moreover, the Notice of Cancellation of Assigned Serial Number mailed on 05 February 2003 identified this application as corresponding to PCT/EP00/05252. As such, it would be appropriate to treat this application as the national stage under 35 U.S.C. 371 of international application number PCT/EP00/05252.

It is noted that the Notice of Cancellation was issued as a result of the mistaken reference to PCT/EP00/05072 in the Transmittal Letter. Counsel is advised that the correct, current application number corresponding to the U.S. national stage of PCT/EP00/05072 is 10/467,780.

DECISION

The petition is **GRANTED**.

The $130.00 petition fee is being charged to counsel's Deposit Acct. No. 18-0988, as authorized by the Transmittal Letter filed on 11 November 2002.

This application is being forwarded to the National Stage Processing Branch for further processing.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

Mail Date: 04/21/2010

Applicant	: Maik Moebus	: DECISION ON REQUEST FOR
Patent Number	: 7603826	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/276,036	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1506** 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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RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

Mail Date: 05/18/2010

Applicant : Maik Moebus
Patent Number : 7603826
Issue Date : 10/20/2009
Application No: 10/276,036
Filed : 11/05/2003

: 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 **1576** 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).

21 MAY 2007

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Charles P. Romano
THOMPSON COBURN, LLP
One US Bank Plaza
Suite 3500
St. Louis, MO 63101

In re Application of:	:	
RICE, Charles et al.		
Application No.: 10/276,051	:	DECISION ON PETITION
PCT Application No.: PCT/US2001/016822	:	
Int. Filing Date: 23 May 2001	:	UNDER
Atty Docket No.: 56029-37102	:	37 CFR 1.78(a)(3) and1.78(a)(6)
For: HCV VARIANTS	:	

This is a decision on the "PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY (37 C.F.R. § 1.78(a)(3))", which has been treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 25 August 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth therein.

The petitions are **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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment (filed 11 September 2006) to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that 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 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Boris Milef at (571) 272-3288. 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 1648 for appropriate action on the amendment submitted 11 September 2006, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Bena Miller
PCT Legal Examiner Detailee
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

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12311 HARBOR DRIVE
WOODBRIDGE, VA 22192

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of :
Muradin Abubekirovich Kumakhov :
Application No. 10/276,060 : ON PETITION
Filed: November 13, 2002 :
Attorney Docket No. KUMAK384 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 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 January 15, 2004. Accordingly, this application became abandoned on April 16, 2004. A Notice of Abandonment was mailed on July 27, 2004.

The file is being forwarded to Technology Center 2800, for review of the amendment, filed April 18, 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

05 APR 2004

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Eric S. Hyman
Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd., Seventh Floor
Los Angeles, Cal 90025-1026

In re Application of :
REZNIK et al. :
Application No.: 10/276,072 : DECISION ON PETITION
PCT No.: PCT/RU01/00111 :
Int. Filing Date: 19 March 2001 :
Priority Date: 15 May 2000 :
Attorney Docket No.: 4333P0008 :
For: METHOD FOR CONTINUOUS PRODUCTION OF DECORATIVE FACING SLABS AND A DEVICE FOR CARRYING OUT SAID METHOD, DECORATIVE . . .

This decision is in response to applicants' "Petition to Revive and Supplemental Response to Notification of Missing Requirements under 35 USC 371" which is being treated as "Petition under 37 CFR 1.181(a)" filed 25 March 2004. No petition fee is required.

BACKGROUND

On 19 March 2001, applicants filed international application PCT/RU01/00111 which claimed a priority date of 15 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 November 2001. A Demand was filed for International Preliminary Examination prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 15 November 2002.

On 14 November 2002, applicants filed a Transmittal Letter for entry into the national stage accompanied, inter alia, by: the requisite basic national fee; a translation of the international application; and a preliminary amendment.

On 20 February 2003, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 30 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 20 February 2003 within the time period set therein.

On 24 February 2004, applicant filed an executed declaration and power of attorney.

On 25 March 2004, applicants filed the present petition.

DISCUSSION

With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicants' petition filed 25 March 2004 satisfies all of the items above. Applicants' counsel attests that the Office action was not received and that a search of the file jacket indicated the Office action was not received. Applicants submitted a copy of the docket record where the non-received office action would have been entered had it been received.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 19 March 2001 and a date of **24 February 2004** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

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

09 SEP 2004

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Julian H. Cohen
Ladas & Parry
26 West 61st Street
New York, NY 10023

In re Application of	:	
ZURCHER	:	
Application No.: 10/276,077	:	DECISION ON PETITION
PCT No.: PCT/IB01/00547	:	
Int. Filing Date: 03 April 2001	:	UNDER 37 CFR 1.181
Priority Date: 13 May 2000	:	
For: METHOD FOR COLOR SEPARATION	:	

This decision is in response to applicant's "Request to Withdraw a Holding of Abandonment" originally filed 01 March 2004 and again on 16 August 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 03 April 2001, applicant filed international application PCT/IB01/00547. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 November 2002.

On 13 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). An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 12 March 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 notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e). 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 20 February 2004, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/09) indicating that the present application was abandoned as to the United States of America for failure to respond to the "Notification of Missing Requirements" (Form PCT/DO/EO/905) mailed 12 March 2003.

On 01 March 2004, and again on 16 August 2004, applicant filed the present petition to withdraw the holding of abandonment arguing that a proper reply was filed on 20 May 2004.

DISCUSSION

A review of the application file finds the original 20 May 2003 filing contained therein. Further, the USPTO fee record for this application shows a payment of the $130.00 surcharge and $110.00 one-month extension of time payment. Further examination of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 20 May 2003. As such, it is proper to **GRANT** applicant's renewed petition at this time.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 is **GRANTED**.

The application will be given an international filing date of 03 April 2001 under 35 U.S.C. 363 and a date of **20 May 2003** 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 (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 a 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
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Fax: (703) 308-6459

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200 PUBLIC SQUARE
CLEVELAND OH 44114

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In re Application of :
Mark Harris :
Application No. 10/276,082 : DECISION ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. 26769-31 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2008, 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 June 11, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2161 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Irvin Dingle
Petitions Examiner
Office of Petitions

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LAW & PATENT DEPARTMENT
200 BALLARDVALE STREET
WILMINGTON, MA 01887

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OFFICE OF PETITIONS

In re Application of :
William Ronald Stuart Baxter :
Application No. 10/276,083 : DECISION GRANTING PETITION
Filed: June 25, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. GN04014 :

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

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2853 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

17 SEP 2003

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Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, IL

In re Application of	:	
Schuurman et al.	:	
US Application No.: 10/276,106	:	
PCT Application No.: PCT/NL01/00363	:	
International Filing Date: 14 May 2001	:	DECISION ON PETITION
Priority Date: 12 May 2000	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: 220039	:	
For: METHOD FOR APPLYING A LAYER CONTAINING AT LEAST POLYMERIC MATERIAL	:	

This decision is in response to the "Petition to File the Declaration and Power of Attorney When Applicant Cannot be Found under 37 CFR 1.47" filed on 20 August 2003, which is being **DISMISSED** as follows.

BACKGROUND

On 14 May 2001 (Monday), Applicants filed international application PCT/NL01/00363, which claimed priority of an earlier application filed on 12 May 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 06 December 2001. A Demand for International Preliminary Examination was filed on 12 December 2001, the end of the 19th month from the 12 May 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 12 November 2002.

On 12 November 2002, Applicants filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390), along with, *inter alia*, the $890 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5), and a declaration not signed by all of the 4 named inventors.

On 20 March 2003, a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) was mailed, requiring submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within the later of 2 months from the mailing date of the Form PCT/DO/EO/905, or 32 months from the priority date.

The instant petition then followed, accompanied by a request for a 3-month extension of time, the requisite extension-of-time fee, and a declaration signed by 3 of the 4 named inventors for this application. The petition asserts that the non-signing inventor, Maarten Johannes KRUPERS, could not be found after diligent effort.

DISCUSSION

A petition under 37 CFR 1.47(a) must include (1) the $130 petition fee required by 37 CFR 1.17(h); (2) a statement of facts showing that the non-signing inventor(s) refused to join in the application or cannot be reached after diligent effort; (3) the last known address of the non-signing inventor(s); and (4) an oath or declaration properly executed by each available inventor on behalf of his or her own behalf as well as the non-signing inventor(s).

The petition authorizes the Office to charge the $130 petition fee to Deposit account No. 12-1216.

The petition also satisfies item (3) above.

However, the petition lacks item (2), in that, it does not include a statement of facts, signed by a person with first hand knowledge of the facts recited therein, establishing that a diligent effort (e.g., through name search on the Internet) was made, in vain, to locate Maarten Johannes KRUPERS. MPEP 409.03(d) (Rev. 1, Feb. 2003).

Regarding item (4), the Office notes that a proper declaration must list all of the 4 inventors, and be signed by each of the available inventors in his/her own signature block, while leaving Maarten Johannes KRUPERS's signature block blank. MPEP 409.03(a) (Rev. 1, Feb. 2003). The declaration enclosed with the instant petition contains alterations as well as wording in, apparently, Dutch in Maarten Johannes KRUPERS's signature block. Moreover, the declaration as filed appears to be a composite of 3 separate pages, assembled after each available inventor had been presented with, and signed, the page containing his/her own signature block. This declaration is therefore defective and not accepted.

CONCLUSION

In view of the above, the §1.47(a) petition is **DISMISSED without prejudice.**

To avoid abandonment of this application, either of the following must be filed within **TWO MONTHS** of the mailing date of this decision:

(A) An oath or declaration properly executed by all 4 inventors, including Maarten Johannes KRUPERS;

(B) A renewed §1.47(a) petition (no petition fee) that complies with the requirements of items (2) (including any pertinent evidence of the searches) and (4) as discussed above.

The 2-month period may be extended under 37 CFR 1.136(a).

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

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
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29 OCT 2004

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180 North Stetson Avenue
Chicago, IL 60601-6780

In re Application of	
SCHUURMAN, et al.	DECISION ON RENEWED
U.S. Application No.: 10/276,106	
PCT No.: PCT/NL01/00363	PETITION UNDER
Int. Filing Date: 14 May 2001	
Priority Date: 12 May 2000	37 CFR 1.47(a)
Attorney Docket No.: 220039	
For: METHOD FOR APPLYING A LAYER CONTAINING AT LEAST POLYMERIC MATERIAL	

This decision is in response to applicant's "Response to Decision on Petition Under 37 CFR 1.47(a)" filed 16 April 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 September 2003, applicant was mailed a decision dismissing applicant's renewed petition under 37 CFR 1.47(a) to accept the present application without the signature of inventor Maarten Johannes Krupers. Applicant was afforded two months to file any request for reconsideration.

On 16 April 2004, applicant responded with the present response; a petition for a five-month extension of time and authorization to deduct the $2010.00 payment of the four-month extension of time fee from Deposit Account No.: 12-1216. With the filing of the petition for a five-month extension of time, applicant's renewed petition is considered to be timely filed.

DISCUSSION

As detailed in the decision mailed 22 August 2003, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items (1) and (3).

The renewed petition under 37 CFR 1.47(a) is moot since the declaration filed 16 April 2004 has been executed by the previous non-signing inventor, Maarten Johannes Krupers. However, applicant has not filed a completely proper response to the decision mailed 17 September 2003. Specifically, the filed combined declaration and power of attorney does not comply with 37 CFR 1.497 (a)-(b). The declaration, while executed by each of the four listed inventors, contains three pages listed as "2." This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

In order for National stage processing to continue, applicant is required to file a compliant oath or declaration of the inventors.

CONCLUSION

As applicant has filed a declaration signed by the previously unavailable inventor, applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

A proper response, as discussed above, must be filed within **ONE (1) MONTH** of the date of mailing of this decision. Failure to provide an executed oath or declaration which complies with 37 CFR 1.497(a) - (b) within the time period will result in the application becoming **ABANDONED** as to the United States. No extensions of this time limit 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: (571) 272-3294
Fax: (571) 273-0459

31 AUG 2005

#5

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David R. Metzger
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P.O. Box 061080
Wacker Drive Station - Sears Tower
Chicago, Illinois 60606-1080

In re Application of Kazuya HAYASHIBE et al. US Application No.: 10/276,126 PCT Application No.: PCT/JP02/01412 Int. Filing Date: 19 February 2002 Priority Date: 14 March 2001 Attorney Docket No.: 09792909-5519 For: OPTICAL RECORDING MEDIUM AND ITS MANUFACTURING METHOD	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the papers applicant filed on 10 February 2004. These papers are being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 19 February 2002, applicant filed international application PCT/JP02/01412, which designated the United States and claimed a priority date of 14 March 2001. Accordingly, the 30-month deadline for entry into the U.S. national stage expired at midnight on 15 September 2003 (14 September 2003 was a Sunday).

On 13 November 2002, applicants filed national stage papers for this international application which included the requisite basic national fee of $890.00. On 16 April 2003, a Form PCT/DO/EO/905 (NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)) was mailed to applicants. This notice required the submission of an oath or declaration of the inventors by 16 June 2003, or within any extended time period under 37 CFR 1.136(a). The last day to respond to the 16 April 2003 Notification of Missing Requirements with a petition to extend the time period would have been 17 November 2003 (16 November 2003 was a Sunday). No such response was filed.

DISCUSSION

Applicant asserts that the 16 April 2003 Notification of Missing Requirements was never received.

As provided in MPEP 711.03(c), the "showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received." In addition this section of the MPEP requires that 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."

The 10 February 2004 petition clearly states that the 16 April 2003 Notification of Missing Requirements was not received in practitioner's office. However, there is no statement by the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. Practitioner makes reference to the declaration of Patricia Contreras (hereinafter the "Contreras declaration"), but this is not the same as a statement by the practitioner.

The Contreras declaration indicates that the firm uses a single Post Office box for receipt of all communications from the United States Patent Office and that the normal daily procedure is to remove all mail from the Post Office box and then enter each item of correspondence in a daily ledger in addition to entering the pertinent information into the firm's computerized docket program. The Contreras declaration indicates that the attached ledger sheets are true and correct copies of the firm's daily mail ledger for the period 16 April 2003 through 31 May 2003.

The requirement is for a copy of the **docket record** where the nonreceived Office communication would have been entered had it been received and docketed. This requirement is not satisfied by a mail log.

DECISION

For the reasons discussed above, the petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this action is desired, applicants must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision.

This request, to be successful, must include a statement by the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, the renewed petition must be accompanied by a copy of the **docket record** where the nonreceived Office communication would have been entered had it been received and docketed.

Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (571) 272-3278

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Commissioner for Patents
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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

In re Application of	:	
HAYASHIBE, Kazuya et al.	:	
Application No.: 10/276,126	:	DECISION ON
PCT No.: PCT/JP02/01412	:	
Int. Filing Date: 19 February 2002	:	PETITION
Priority Date: 14 March 2001	:	
Attorney Docket No.: 09792909-5519	:	UNDER 37 CFR 1.181
For: OPTICAL RECORDING MEDIUM AND ITS MANUFACTURING METHOD	:	

This decision is in response to "Renewed Petition Under 37 CFR 1.181," filed on 12 September 2005.

BACKGROUND

On 19 February 2002, applicants filed international application PCT/JP02/01412, claiming a priority date of 14 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 September 2002. The deadline for entry into the national stage in the United States was 14 September 2003.

On 13 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee. .

On 16 April 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. The Notification set a deadline of two months from the mail date of the Notification or 32 months from the priority date, whichever was later.

On 10 February 2004, applicants filed a petition under 37 CFR 1.181 and a declaration of the inventors.

On 31 August 2005, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicants' petition without prejudice.

On 12 September 2005, applicants filed "Renewed Petition Under 37 CFR 1.181."

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office

action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) was previously satisfied. Item (2) has now been satisfied.

As to (3), practitioner must provide a copy of the docket record where the nonrecieved Office communication would have been entered had it been received and docketed and reference the docket record in the 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." MPEP §711.03(c) para. II. Neither a correspondence log not the docket records for this application along are sufficient.

As applicant has not established nonreceipt of the Notification of Missing Requirements, the fee for a three month extension of time is required. The fee will be charged to deposit account no. 19-3140 as authorized.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply 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." No additional petition fee is required.

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.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 10 February 2004.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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24 OCT 2005

#9

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SONNENSCHEIN NATH & ROSENTHAL LLP
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WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

In re Application of	
HAYASHIBE, Kazuya et al.	
Application No.: 10/276,126	DECISION ON
PCT No.: PCT/JP02/01412	
Int. Filing Date: 19 February 2002	PETITION
Priority Date: 14 March 2001	
Attorney Docket No.: 09792909-5519	UNDER 37 CFR 1.181
For: OPTICAL RECORDING MEDIUM AND ITS MANUFACTURING METHOD	

This decision is in response to "Second Renewed Petition For Withdrawal of Abandonment Under 37 CFR §1.181," filed on 11 October 2005.

BACKGROUND

On 19 February 2002, applicants filed international application PCT/JP02/01412, claiming a priority date of 14 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 September 2002. The deadline for entry into the national stage in the United States was 14 September 2003.

On 13 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 16 April 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. The Notification set a deadline of two months from the mail date of the Notification or 32 months from the priority date, whichever was later.

On 10 February 2004, applicants filed a petition under 37 CFR 1.181 and a declaration of the inventors.

On 31 August 2005, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicants' petition without prejudice.

On 12 September 2005, applicants filed "Renewed Petition Under 37 CFR 1.181."

On 27 September 2005, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicants' petition without prejudice.

On 11 October 2005, applicants submitted this second renewed petition under 37 CFR 1.181.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) were previously satisfied.

Item (3) has now been satisfied. Applicants have provided a copy of the docket records for the firm for the day on which a response would have been docketed had the correspondence been received by the firm. While the response is listed, it is listed with an entry date well after the due date for response had passed. Applicants supplemented their evidence with declarations indicating that the copy received from PCT Legal Administration was entered upon receipt as was the firm's practice at the time. Applicants supplied docket records from the attorney that were created between the mail date of the Notification and the receipt of the copy of the Notification from PCT Legal Administration. Those docket records do no reflect a Notification of Missing Requirements for the instant application.

The fee for a three month extension of time will be refunded to deposit account no. 19-3140, as authorized.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date is 10 February 2004.

Erin P. Thomson

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PCT Legal Administration

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THOMSON MULTIMEDIA LICENSING INC
CN 5312
PRINCETON, NJ 08543-0028

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of
Werner Bullinger, et al.
Application No. 10/276,128
Filed: November 13, 2002
Attorney Docket No. PD000023

ON PETITION

This is a decision in response to the petition, filed April 19, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 10, 2006. A Notice of Abandonment was mailed on February 2, 2007. In response, on April 19, 2007, the present petition was filed.

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

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

The application is being referred to Technology Center AU 2622 for consideration of the response filed April 19, 2007.

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: PAUL KIEL
THOMSON LICENSING INC
P.O. BOX 5312
PRINCETON, NJ 06545

17 MAR 2004

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Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

In re Application of	
LEITENBERGER, Thomas et al.	
Application No.: 10/276,139	DECISION ON
PCT No.: PCT/DE01/00988	
Int. Filing Date: 15 March 2001	PETITION
Priority Date: 11 May 2000	
Attorney Docket No.: 2375	UNDER 37 CFR 1.181
For: MACHINE TOOL, ESPECIALLY A HAND MACHINE TOOL	

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment," filed on 08 March 2004. No petition fee is due.

BACKGROUND

On 15 March 2001, applicant filed international application PCT/DE01/00988. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 November 2001. A demand for international preliminary examination was filed 16 November 2001, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, 12 November 2002 (11 November 2002 was a holiday).

On 12 November 2002, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 19 June 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 30 January 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application had gone abandoned.

On 08 March 2004, applicant submitted the instant petition, accompanied by an executed declaration and a date-stamped postcard receipt.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by serial number, stamped 01 August 2003 and listing a declaration and fee. This is adequate evidence that the listed items were received by the Office on 01 August 2003. Applicant indicates that the enclosed declaration is a true copy of the 01 August 2003 submission and the statement is signed by someone registered to practice before the Office. The declaration is accepted as having been received on 01 August 2003.

The declaration submitted on 01 August 2003 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 30 January 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 01 August 2003.

Erin M. Pender

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24 JAN 2003

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Richard C. Ekstrom
Legal Department
Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, California 94304

In re Application of	:	
GRIFFIN et al.	:	
Application No.: 10/276,162	:	DECISION ON PETITION
PCT No.: PCT/US01/11861	:	UNDER 37 CFR 1.182
Int. Filing Date: 11 April 2001	:	
Priority Date: 14 April 2000	:	
Attorney Docket No.: PI-0071USN	:	
For: SECRETED PROTEINS		

This decision is in response to applicants' "Petition for Name Change of Inventor under 37 CFR 1.182" filed on 15 October 2002. Applicants are requesting to change the name of the seventh named inventor from Chandra Patterson to Chandra Arvizu due to marriage. The petition was accompanied by an affidavit signed by Chandra Arvizu using both her former name and present name. The petition fee under 37 CFR 1.17 has been charged to Deposit Account No. 09-0108, as authorized.

DISCUSSION

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

The petition has been reviewed and is approved. The declaration submitted on 15 October 2002 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Chandra Patterson to Chandra Arvizu is **GRANTED**.

This application is being forwarded to United States/Elected Office for further processing with the name of the seventh named inventor as Chandra Arvizu and for review of the national stage papers submitted 15 October 2002 and, if appropriate, preparation and

mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of **15 October 2002** under 35 U.S.C. 371(c).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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26 AUG 2003

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F. Chau & Associates
1900 Hempstead Turnpike
Suite 501
East Meadow, NY 11554

In re Application of
LINDEMANN et al.
Application No.: 10/276,163
PCT No.: PCT/US01/13927
Int. Filing Date: 30 April 2001
Priority Date: 01 May 2001
Attorney Docket No.: YOR920000239US
For: IMPROVING DES HARDWARE THROUGHPUT FOR SHORT OPERATIONS

DECISION ON REQUEST

UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Correction of Inventorship under 35 U.S.C. §116 and 37 CFR 1.497(d)", filed in response to "Notification of Defective Response" on 06 June 2003 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Ronald Perez as inventor in the above referenced application. The requisite $130 fee will be charged to applicant's deposit account per their authorization. The $130 surcharge for filing the declaration after the 30 month period was paid.

BACKGROUND

On 19 June 2002, a Notification of Missing Requirements was mailed to applicants, indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b) was required.

On 21 April 2003, in response to the Notification of Missing Requirements, applicants filed an executed declaration, identifying PCT/US01/13927. The declaration named Mark Lindemann and Sean William Smith as inventive entities. The declaration was executed by the inventors named in the international application publication and by Ronald Perez, who was not named as an inventor in the published international application.

On 05 May 2003, a Notification of Defective Response was mailed to applicants indicating that the declaration executed by the inventors did not comply with 37 CFR 1.497(a) and (b). The deadline for responding was one month from the mail date of the Notification (or by 05 June 2003) or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever was longer.

On 06 June 2003, Petitioner filed a response to correct inventorship under 37 CFR 1.497(d), to add inventor Ronald Perez. Petitioner provided the statement of Mr. Perez in support of the correction of inventorship under 37 CFR 1.497(d) and the written consent of the assignee.

DISCUSSION

37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(I); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Applicants included a statement by Ronald Perez stating that "the error in the inventorship occurred without deceptive intention" on his part. This declaration is signed by Mr. Perez and satisfies item (1) of 37 CFR 1.497(d).

The processing fee of $130.00 has been paid, satisfying Item (2) above.

With regard to Item (3), applicants also included a "Consent of Assignee under 37 CFR 1.48(a)(5)" signed by Jeffrey L. Forman, Program Manager, Patent Liaison Office, who states that the assignee "hereby consents to the addition of Ronald Perez as joint inventor in the U.S. application identified above." Mr. Forman attached a Letter of Authority which indicates that he has the authority to act in United States patent applications. The Consent of Assignee satisfies item (3) above.

Accordingly, applicants have met all of the requirements to add Mr. Perez as co-inventor in the above-identified international application. The three declarations submitted on 06 June 2003 satisfy the requirements of 37 CFR 1.497.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Mr. Perez as co-inventor is hereby **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **06 June 2003.**

/Cynthia M. Kratz/

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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07 APR 2003

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Stephen J. Driscoll
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2600 Aramark Tower
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In re Application of :
HAHN, Hans-Ulrich :
Application No.: 10/276,165 : **DECISION ON**
PCT No.: PCT/EP00/00777 :
Int. Filing Date: 01 February 2000 : **PETITION**
Priority Date: 11 February 1999 :
Attorney's Docket No.: RDH28115USA : **UNDER 37 CFR 1.137(b)**
For: MULTILAYER DEVICE FOR STORING :
AND TRANSPORTING CHEMICALS :

Applicants' "Petition to Revive an Unintentionally Abandoned Application Pursuant to 37 CFR §1.137(b)" filed with the national stage papers on 12 November 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants submitted a check with the national stage papers in the amount of $1,252.00 for the basic national fee, surcharge fee, extra claim fee, processing fee and independent claim fee. The petition fee of $640.00 has been charged to Deposit Account No. 19-5425 as authorized. Applicants state that "[t]he entire period delay which is associated with the filing of documents of (A) above and which involves a term that extends from the due date for filing the documents until the filing of the present Petition was unintentional" has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). If this is an incorrect interpretation, applicants are requested to notify this office. A terminal disclaimer is not required. Thus, all requirements have been satisfied.

The declaration provided on 12 November 2002 was not executed. Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements indicating that the declaration in compliance with 37 CFR 1.497(a) and (b) is required.

James Thomson
Attorney Advisor
PCT Legal Office

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Sonny NKansa c/o Honeywell International Inc.
Patent Services Department
101 Columbia Road, Building Meyer 5
Morristown NJ 07962

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NOV 16 2007

OFFICE OF PETITIONS

In re Application of :
Hans-Ulrich Hahn :
Application No. 10/276,165 : DECISION ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. RDH28115USA :

This is a decision on the petition under 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 timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 23, 2005, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 26, 2005 (July 23, 2005, the due date, is a Saturday). A Notice of Abandonment was mailed on April 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of February 23, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1773 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received March 27, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

20 JAN 2004

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#4

Richard L. Byrne
700 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219-1818

In re Application of	
ATANASOV, Nikolay, Pavlov	
U.S. Application No.: 10/276,184	DECISION ON
PCT No.: PCT/BG01/00007	PETITION TO CONFIRM
International Filing Date: 14 March 2001	NON-RECEIPT OF AN
Priority Date: 19 May 2000	OFFICE COMMUNICATION
Attorney's Docket No.: 3893-021937	
For: THREE-DIMENSIONAL INDICATION WITH SIGN-FIGURES	

This decision is issued in response to the "Letter Re: Completion Of Filing Requirements For International Application Entering U.S. National Stage" filed on 04 November 2003. No petition fee is required.

BACKGROUND

On 14 March 2001, applicants filed international application PCT/BG01/00007 which claimed a priority date of 19 May 2000 and which designated the United States. On 22 November 2001, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"), as was a copy of the PCT Rule 4.17(iv) declaration executed by inventor Nikolay Pavlov ATANASOV and filed with the international application.

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

On 13 November 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, among other materials, payment of the small entity basic national fee.

On 11 July 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 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 04 November 2003, applicants filed the "Letter Re: Completion Of Filing Requirements For International Application Entering U.S. National Stage" considered herein. This submission includes a copy of an executed declaration and the $65 surcharge for filing the declaration later than thirty months after the priority date. The submission also asserts that the Notification Of Missing Requirements mailed 11 July 2003 was never received, and that applicant should therefore not be required to pay the two-month extension fee required to make the response timely. This portion of the submission is treated as a petition under 37 CFR 1.181 to confirm that the Office Communication was not received.

DISCUSSION

As noted above, the application file contains a PCT Rule 4.17(iv) declaration executed by inventor Nikolay Pavlov ATANASOV that was filed with the international application and was transmitted to the USPTO by the IB on 22 November 2001, well before the expiration of thirty months from the priority date. This declaration satisfies the requirements of 35 U.S.C. 371(c)(4) and 37 CFR 1.497. Accordingly, the Notification Of Missing Requirements mailed 11 July 2003, based as it was on applicant's purported failure to timely file an executed declaration, is appropriately vacated.

Applicant's petition to confirm that the now vacated Notification Of Missing Requirements was not received is therefore moot.

CONCLUSION

The Notification Of Missing Requirements mailed 11 July 2003 is hereby **VACATED**.

Applicant's petition to confirm that the Notification Of Missing Requirements was not received is **MOOT**.

Deposit Account No. 23-0650 will be credited $65 for the surcharge payment submitted by applicant in response to the vacated Notification Of Missing Requirements.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing. The 35 U.S.C. 371(c) date is 13 November 2002.

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

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701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

MAILED

OCT 15 2003

Paper No. 7

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of:
Aloys Wobben
Serial No. 10/276187
Filed: April 9, 2002
For: ~~PLAIN BEARING AND~~ WIND ENERGY UNIT WITH SAID ~~BEARING~~

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed July 7, 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 VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states that the present invention is related to a wind power installation that generates electricity and that wind power is one type of energy than can generate electrical power without incurring pollution to air, water or soil. Specifically, generating electrical power from wind power requires no coal, petroleum, wood, or other consumable resources and therefore maintains and preserves the living environment. These statements, are inadequate 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." Applicant has described how wind power in general materially enhances the quality of the environment but has not provided a link or relationship between how the present invention itself, "a method of micrositing a wind park", adds or provides this enhanced quality. Since applicant's invention is not to wind power itself but rather to a particular method of determining where to site a wind park applicant must provide explanation as to how this method contributes to the restoration or maintenance of the basic life sustaining natural elements

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. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

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

SNM/ekn 10/7/03

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TECHNOLOGY CENTER 3600

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
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Paper No. 9

In re Application of:
Aloys Wobben
Serial No. 10/276187
Filed: April 9, 2003
For: METHOD FOR MICROSITING A WIND PARK

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the renewed petition filed November 4, 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 VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The renewed petition states that the present invention is *directly related* to improving the energy generated from a wind park and that the invention itself is directed towards the *placement* of each individual wind power installation at a location having regard to the maximum energy yield. Specifically, applicant states that the particular spacing of the installations from one another provides for optimum wind energy and cuts down on infostructure expense.

These statements, which evidence more efficient utilization and development of energy resources, is adequate to establish for the record that the invention "materially contributes to the development of energy resources".

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.

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

KJD/cps 2/11/04

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Robert D. Shedd
Patent Operation
Thomson Licensing LLC
C N 5312
Princeton, NJ 08543-0028

Mail Date: 04/21/2010

Applicant	: Klaus Gaedke	: DECISION ON REQUEST FOR
Patent Number	: 7586945	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/276,188	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1397** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-17-07

Paper No.: ____

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 7132083

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

The proposed change to Column 2, line 57 doesn't result in a grammatically correct sentence.

GLADYS JR CORCORAN
SUPERVISORY PATENT EXAMINER

SPE

1744
Art Unit

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JUN 29 2009

OFFICE OF PETITIONS

NXP BV
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of :
Budde, et al. :
Application No. 10/276,198 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. DE 010067 :

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

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed September 19, 2008. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on November 17, 2008. However, in an Advisory Action mailed on December 18, 2008, the Examiner informed Applicant that the Amendment did not place the application in condition for allowance. No further reply with an extension of time having been received, the application became abandoned on December 20, 2008. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

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

The application is being forwarded to Group Art Unit 2416 for consideration of the RCE, filed June 9, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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AUG 2 9 2005

OFFICE OF PETITIONS

In re Patent No. 6,897,187

Issue Date: May 24, 2005

Application No. 10/276,209

Filed: June 5, 2003

Attorney Docket No. **2000DE423**

ON PETITION

This is a decision on the petition filed August 10, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the second joint inventor's name on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Deposit account 03-0260 will be charged $130.00 for the instant request and $100.00 for the certificate of correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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GARY M. COHEN
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SUITE 300
125 STRAFFORD AVENUE
WAYNE, PA 19102

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MAY 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Claude Barlier et al :
Application No. 10/276,218 : ON PETITION
Filed: May 19, 2003 :
Attorney Docket No. CIRTES4

This is a decision on the petition, filed May 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The file will be forwarded to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of
Griffin, et al.
Application No. 10/276,230
Filed: November 12, 2002
Attorney Docket No. 404172001700

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed December 16, 2008 and supplemented on February 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of Great Britain Application No. 011356.3, filed May 12, 2000.

The petition is **GRANTED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on November 12, 2002, which is after November 29, 2000 and this application is a National Phase application under 35 U.S.C. 371 of International Application No. PCT/GB01/01910, filed May 2, 2001, and that application was filed within 12 months of May 12, 2000. On July 9, 2003, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410.00 was received with the initial petition on December 16, 2008. Lastly, petitioners have provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed. A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, was mailed on February 19, 2009. This decision validates the prematurely mailed corrected Filing Receipt.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt mailed on February 19, 2009 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.

This application is being referred to Technology Center AU 1657 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d) and for consideration of the amendment filed February 9, 2009.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Griffin et al. :
Application No. 10/276,230 :
Filed: May 2, 2001 :
Attorney Docket No. 404172001700 :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the "Application for Patent Term Adjustment Under 37 CFR 1.705" filed September 29, 2009. Applicants request the initial determination of patent term adjustment be corrected from three hundred twenty-seven (327) days to one thousand two hundred thirty-three (1,233) days.

The request for reconsideration of the initial determination of patent term adjustment is **granted to the extent indicated herein**.

The Office has updated the PALM screen to reflect the Patent Term Adjustment ("PTA") determination at the time of the mailing of the Notice of Allowance is 325 days. A copy of the updated PALM screen, showing the new determination, is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on July 1, 2009. Applicants were advised of a patent term adjustment to date of 327 days. In response, Applicants timely filed this application for patent term adjustment with payment of the issue fee on September 29, 2009.

Applicants assert the patent term adjustment should have been:

(1) Increased 790 days for Office delay under 35 U.S.C. § 154(b)(1)(B) ("B delay"),
(2) Reduced 2 days under 37 C.F.R. § 1.704(b) for applicants' delay in filing a reply to a Notice mailed April 7, 2003, and
(3) Reduced 123 days under 37 C.F.R. § 1.704(b) for delay involving the filing of a Request for Continued Examination ("RCE") on May 19, 2008.

B Delay

To the extent applicants request 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 request is 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 C.F.R. § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the 37 C.F.R. § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 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 C.F.R. § 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.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 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 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 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 C.F.R. § 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]

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 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicant Delay Under 37 C.F.R. § 1.704(b) When Responding to the April 7, 2003 Notice

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of

[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.

> time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

The Office mailed a "Notice of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" on April 7, 2003. Applicants filed a reply three months and two days later on July 9, 2003. Therefore, the Office agrees with applicants that a reduction of two days should have been entered for Applicants' delay in responding to the April 7, 2003 Notice.

In view of the prior discussion, the Office has entered a reduction of 2-day reduction under 37 C.F.R. § 1.704(b) for Applicants' delay in responding to the April 7, 2003 Notice.

Applicant Delay Under 37 C.F.R. § 1.704(b) Involving the Request for Continued Examination filed May 19, 2008

Applicants state,

> Applicants filed a Request for Continued Examination on May 19, 2008, following the filing of a Notice of Appeal, mailed October 17, 2007. Applicants calculate 123 days of applicants' delay in accordance with 35 USC 154(b)(2)(C)(ii) and 37 CFR 1.704(b).

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

37 CFR 1.704(b) provides for a reduction when a party takes more than 3 months to respond to, with emphasis added, "any *notice or action* by the Office making any rejection, objection, argument or other request."

The Office did not mail a notice or office action during the time period beginning on the date Applicants filed the Notice of Appeal and ending on the date Applicants filed the RCE. Therefore, the RCE was not a response to a notice or office action filed more than three months after the Office mailed the notice or office action.

Although a two-month time period to file an appeal brief (or RCE) after the filing of a Notice of Appeal does exist, the time period is set forth in 37 C.F.R. § 41.37(a)(1), not in a notice or Office action. Therefore, provisions of 37 C.F.R. § 1.704(b) do not apply to the "delay" in filing the RCE in this case.

In view of the prior discussion, the Office will not enter a reduction for "delay" in filing the RCE.

Conclusion

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on July 1, 2009. Applicants were advised of a patent term adjustment to date of 327 days.

As previously discussed, the Office should have entered a 2-day reduction under 37 C.F.R. § 1.704(b) for Applicants' delay in responding to the April 7, 2003 Notice.

The Office has now entered the 2-day reduction and the patent term adjustment as of the date of mailing of the July 1, 2009 Notice of Allowance is 325 days.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. §1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PTA Calculations for Application: 10/276230			
Application Filing Date:	07/09/2003	PTO Delay (PTO):	557
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	230
Post-Issue Petitions:	0	Total PTA (days):	325
PTO Delay Adjustment:	-2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	02/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
82	07/01/2009	MAIL NOTICE OF ALLOWANCE			
81	06/23/2009	ISSUE REVISION COMPLETED			
80	06/23/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
79	06/23/2009	CASE DOCKETED TO EXAMINER IN GAU			
78	06/19/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
77	06/19/2009	DOCUMENT VERIFICATION			
76	06/19/2009	EXAMINER'S AMENDMENT COMMUNICATION			
75	06/19/2009	NOTICE OF ALLOWABILITY			
72	06/17/2009	DATE FORWARDED TO EXAMINER			
71	06/12/2009	AMENDMENT AFTER FINAL REJECTION			
70	06/15/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
69	06/10/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
68	05/01/2009	MAIL SUPPLEMENTAL FINAL REJECTION			
67	05/01/2009	SUPPLEMENTAL FINAL REJECTION			
66	04/29/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
65	04/29/2009	MAIL FINAL REJECTION (PTOL - 326)			
64	04/27/2009	FINAL REJECTION			
63	02/09/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	04/01/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
61	03/30/2009	MAIL-PETITION DECISION - GRANTED			

60	03/27/2009	PETITION DECISION - GRANTED			
59	02/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	57
58	02/20/2009	DATE FORWARDED TO EXAMINER			
57	02/09/2009	RESPONSE AFTER NON-FINAL ACTION		90	46
56	02/02/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	02/19/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
54	02/19/2009	FILING RECEIPT - CORRECTED			
53	02/18/2009	CORRESPONDENCE ADDRESS CHANGE			
52	01/27/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
51	02/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	12/16/2008	PETITION ENTERED			
46	08/11/2008	MAIL NON-FINAL REJECTION			
45	08/11/2008	NON-FINAL REJECTION			
44	06/06/2008	DATE FORWARDED TO EXAMINER			
43	05/19/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
42	06/06/2008	DISPOSAL FOR A RCE / CPA / R129			
41	05/19/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	05/19/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	11/09/2007	MAIL ADVISORY ACTION (PTOL - 303)			
38	11/08/2007	ADVISORY ACTION (PTOL-303)			
37	10/19/2007	DATE FORWARDED TO EXAMINER			
36	10/17/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
35	10/17/2007	NOTICE OF APPEAL FILED		61	31
34	10/17/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	08/12/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	08/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	05/17/2007	MAIL FINAL REJECTION (PTOL - 326)			
30	05/14/2007	FINAL REJECTION			
29	03/06/2007	DATE FORWARDED TO EXAMINER			

28	02/22/2007	RESPONSE AFTER NON-FINAL ACTION		78	25
27	02/22/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	10/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	09/06/2006	MAIL NON-FINAL REJECTION			
24	09/05/2006	NON-FINAL REJECTION			
23	06/21/2006	PRELIMINARY AMENDMENT			
22	06/27/2006	DATE FORWARDED TO EXAMINER			
21	06/21/2006	RESPONSE TO ELECTION / RESTRICTION FILED		1	19
20	06/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	03/20/2006	MAIL RESTRICTION REQUIREMENT	557		-1
18	03/17/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
16	08/12/2004	REFERENCE CAPTURE ON IDS			
14	05/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	05/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	07/09/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
11	03/24/2004	TRANSFER INQUIRY TO GAU			
10	11/04/2003	CLEARED BY OIPE CSR			
9	07/30/2003	APPLICATION RETURN FROM OIPE			
8	07/30/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
7	07/30/2003	APPLICATION RETURN TO OIPE			
6	07/28/2003	APPLICATION DISPATCHED FROM OIPE			
5	07/28/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	07/09/2003	ADDITIONAL APPLICATION FILING FEES			
3	07/09/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Alex R. Sluzas
Paul & Paul
Two Thousand Market Street
Suite 2900
Philadelphia PA 19103

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MAR 21 2006

OFFICE OF PETITIONS

In re Application of :
Natalia Veniaminovna Kazantseva :
Application No. 10/276,232 : DECISION ON PETITION
Filed: April 7, 2003 :
Attorney Docket No. 145-03 :

This is a decision on the petition under 37 CFR 1.137(a), filed February 27, 2006, to revive the above-identified application.

This application was held abandoned for failure to file a timely and proper response to the nonfinal Office Action mailed on May 19, 2004, which set a three-month shortened statutory period for reply. Accordingly, the application became abandoned on August 20, 2004. A Notice of Abandonment was mailed on February 17, 2005.

The present petition satisfies the requirements of 37 CFR 1.137(a). Petitioner submitted the required reply in the form of an amendment, paid the petition fee of $250.00, and a provided a showing to the satisfaction of the Director that the entire delay was unavoidable.

This matter is being referred to Technology Center Art Unit 3736 for a review of the amendment filed with the present petition.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

17 JUL 2003

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Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22202-4714

In re Application of	:	
Cankurtaran	:	
Application No. 10/276,246	:	DECISION ON
PCT No.: PCT/TR01/00005	:	
Int. Filing Date: 31 January 2001	:	PETITION UNDER
Priority Date: 01 February 2000	:	
Atty. Docket No.: 888-64	:	37 CFR 1.137(b)
For: Wet And Dry Horizontal	:	
Vacuum Cleaner	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 14 November 2002.

BACKGROUND

This international application was filed on 31 January 2001 and claimed an earlier priority date of 01 February 2000.. The International Bureau transmitted a copy of the published international application to the USPTO on 09 August 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 01 August 2002. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes a statement that "The delay in prosecuting this case (i.e. filing the declaration and paying the filing fee) was unintentional." This statement is being construed as a statement that "the entire delay in filing the required

reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

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

Petitioner's Deposit Account No. 14-1140 is being charged in the amount of $130.00 for the surcharge under 37 CFR 1.492(e), as authorized by the Transmittal Letter of 14 November 2002.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371 (c) (1), (2) and (4) is **14 November 2002**.

Applicant is advised that, effective May 1, 2003, the Office has changed its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 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.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

07/17/2003 GFREY1 00000159 141140 10276246
01 FC:1617 130.00 DA

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Mailed:

In re application of
David M. Haddleton
Serial No. 10/276,266
Filed: August 28, 2003
For: POLYMERIZATION INITIATOR AND USE

DECISION ON
PETITION

SEP 2 9 2005

This is a decision on the PETITION UNDER 37 CFR 1.181 TO REFUND THE EXTENSION FEE AND NOTICE OF APPEAL FEE PAID on November 29, 2004.

On May 28, 2004, a Final Rejection was mailed to Applicant, setting a three month due date of August 28, 2004. However, this action was purportedly not received by Applicant's representative until September 7, 2004. On September 9, 2004, Applicant filed a Petition to Restart Time Period for Reply. No decision on the Petition was reached as of November 29, 2004 and, as a result, Applicant filed a Notice of Appeal and request for a three month extension of time which was granted.

On November 29, 2004 the instant petition under 37 CFR 1.181 was timely filed to formally request a refund of the extension fee and Notice of Appeal fee paid on November 29, 2004.

DECISION

Section 710.06 of the MPEP states in part:

714.03 [R-2] Situations When Reply Period is Reset or Restarted

*****

In the event that correspondence from the Office is received late (A) due to delays in the U.S. Postal Service, or (B) because the mail was delayed in leaving the USPTO (the postmark date is later than the mail date printed on the correspondence), applicants may petition to reset the period for reply, which petition shall be evaluated according to the guidelines which follow. Where the Office action involved in the petition was mailed by a Technology Center (TC), the authority to decide such petitions has been delegated to the TC Director.

*****

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address 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 (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped

thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), 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 of the Office action at the correspondence address.
There is no statutory requirement that a shortened statutory period of longer than 30 days to reply to an Office action be reset due to delay in the mail or in the Office. However, when a substantial portion of the set reply period had elapsed on the date of receipt at the correspondence address (e.g., at least 1 month of a 2- or 3-month period had elapsed), the procedures set forth above for late receipt of action are available. Where an Office action was received with less than 2 months remaining in a shortened statutory period of 3 months the period may be restarted from the date of receipt.

In the instant case, the original petition filed September 9, 2004 was filed within 2 weeks of the date of receipt of the Office action at the correspondence address, the entire portion of the set reply period had elapsed by the date of receipt, and the petition included evidence showing that the date of receipt of the Office action at the correspondence address was September 7, 2004. Therefore, it is clear that the original petition complied with the above-mentioned criteria and should have been granted, thereby setting a new period for reply dating from September 7, 2004. In that case, there would have been no need for the three month extension of time fee to respond to the Final Rejection. Therefore, a refund of that fee in the amount of $490.00 is appropriate. However, the timely filing of a Notice of Appeal with Appeal fee is a proper response under 37 CFR 1.113 to a Final Rejection. Therefore, a refund of the Notice of Appeal fee is not appropriate. Accordingly, the instant petition requesting a refund of the fees paid is **GRANTED**. A refund of $490.00 will be re-credited to Deposit Account No. 15-0461.

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

OLIFF & BERRIDGE, PLC
PO BOX 19928
ALEXANDRIA, VIRGINIA 22320

23 MAR 2004

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VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

In re Application of :
GOFF, James R. :
Application No.: 10/276,270 : DECISION
PCT No.: PCT/US01/20387 :
Int. Filing Date: 27 June 2001 : ON PETITION UNDER
Priority Date: 02 October 2000 :
Attorney's Docket No.: 09047-184979 : 37 CFR 1.182
For: ABRASIVE THROWING WHEEL :
AND IMPROVED BLADE ASSEMBLY :

This is a decision on applicant's "Petition Under 37 C.F.R. §1.181(a)(3)," filed in the United States Patent and Trademark Office on 03 March 2004. This response is being treated as a petition under 37 CFR 1.182. The petition fee will be charged as authorized by the transmittal letter.

BACKGROUND

On 27 June 2001, applicant filed international application PCT/US01/20387, which claimed a priority date of 02 October 2000. On 10 April 2002, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 02 April 2003.

On 14 November 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 10 March 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the oath or declaration were required.

On 27 February 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely reply to the Notification of Missing Requirements mailed 10 March 2003.

On 03 March 2004, applicant filed this petition, accompanied by, *inter alia*, a copy of a declaration and a postcard receipt.

DISCUSSION

Applicant indicates that applicant submitted an executed declaration on 21 April 2003 and provides a date stamped postcard. Applicant also indicates that the papers were directed to "10/376,270," rather than "10/276,270." Upon review of Office records for 10/376,370, applicant's fee and declaration were located. Applicant's Petition Under 37 C.F.R.1.181 has thus been treated as a petition under 37 CFR 1.182. The paperwork and fee will be transferred to 10/276,270.

A review of the declaration submitted 21 April 2003, indicates it incorrectly identifies the specification to which it is directly, namely it indicates it is for "10/376,270." As such, it fails to comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.182 is **GRANTED**.

The Notification of Abandonment mailed 27 February 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that applicant must furnish a declaration in compliance with 37 CFR 1.497(a)-(b).

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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BLANK ROME LLP
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WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of :
Arthur W. Johnston, et al. :
Application No. 10/276,274 : DECISION ON REQUEST
Filed: May 6, 2003 : TO WITHDRAW
Attorney Docket No. 38830/202848 : 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 23, 2005.

The request is **APPROVED**.

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

The request was signed by Peter S. Weissman on behalf of himself and all the attorneys of record who are associated with Customer No. 23370.

All attorneys/agents associated with the Customer Number 23370 have been withdrawn. Accordingly, there is no attorney of record at this time.

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

Applicant should note that there is an outstanding final Office action mailed January 4, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: ARTHUR W. JOHNSTON
335 FRANCYNE COURT
ATLANTA, GA 30328

DANIEL J. WARREN
SUTHERLAND, ASBILL & BRENNAN
999 PEACHTREE STREET
ATLANTA, GA 30309

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David G. Latwesen
Wells, St. John, Roberts, Gregory & Matkin, P.S.
601 W. 1st Ave., Suite 1300
Spokane, WA 99201

In re Application of :
HONEYWELL INTERNATIONAL, INC. :
PCT No.: PCT/US01/17670 :
Int. Filing Date: 31 May 2001 : DECISION ON PETITION
Priority Date: 01 May 2001 :
Attorney Docket No.: H0001857 : UNDER 37 CFR 1.10(c)
For: PHYSICAL VAPOR DEPOSITION :
TARGETS COMPRISING TI AND ZR :
AND METHODS OF USE :

This decision is in response to applicants' "Petition to Accord Correspondence Filing Date Shown on Express Mail Label 'Date-In'" filed on 17 July 2001. Applicants urge that the international application was filed in the United States Patent and Trademark Office (USPTO) on 31 May 2001. The petition is being treated as a petition under 37 CFR 1.10(c).

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.

Applicants' petition states that the above-captioned international application was filed with the USPTO on 31 May 2001. The petition is accompanied by a copy of the Certificate of Express Mailing and a copy of the Express Mailing Label EL465783594US indicating a "Date-In" date of 31 May 2001. The Transmittal Letter to the United States Receiving Office (US/RO) lists the Express Mail label # EL465783594US. Applicant has satisfied all three items above. Accordingly, it is appropriate grant applicants petition at this time and to accord the application an international filing date of 31 May 2001.

Received from < 5098383424 > at 10/23/03 4:12:59 PM [Eastern Daylight Time]

This application is being forwarded to the United States Receiving Office for processing in accordance with this decision, namely, issuance of a corrected NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE (Form PCT/RO/105) indicating an international filing date of **31 May 2001** and notification of the **31 May 2001** filing date to the International Bureau.

Boris Milef
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

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Peter J Yim
Morrison & Foerster
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San Francisco CA 94105-2482

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JUN 23 2006

OFFICE OF PETITIONS

In re Application of :
Hui WANG :
Application No. 10/276,286 : DECISION ON PETITIONS
Filed: April 4, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 495152000204 :

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed February 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c), and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The prior-filed International Application No. PCT/US01/14562 was filed during the pendency of nonprovisional application No. 09/570,566, which was filed during the pendency of nonprovisional application No. 09/497,894, which was filed during the pendency of International Application No. PCT/US99/15506, and International Application No. PCT/US99/15506 was filed on July 8, 1999, which is within twelve months of the filing date of the prior-filed provisional Application No. 60/092,316, which was filed on July 9, 1998, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the prior nonprovisional application through which benefit is sought. See U.S.C. §119(e). Accordingly, having found that the

instant petition satisfies the conditions of 37 CFR 1.78(a)(3) and (a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120, 365(c) and 119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that 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 David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2877 for appropriate action on the amendment submitted February 10, 2006, including consideration by the examiner of the claim under 35 U.S.C. § §120, 365(c) and 119(e) of the prior-filed applications.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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INTELLECTUAL PROPERTY DEPARTMENT
475 HALF DAY ROAD - SUITE 500
LINCOLNSHIRE, IL 60069

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OFFICE OF PETITIONS

In re Application of	:	
Yuji Ishihara, et. al.	:	
Application No. 10/276,288	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. 2728 US0P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being referred to Technology Center Art Unit 1624, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Takeda Pharmaceutical North America, Inc.
Intellectual Property Department
One Takeda Parkway
Deerfield, IL 60015

In re Application of:
Yuji ISHIHARA
Application No.: 10/276,288
Filed: November 12, 2002
Atty's Docket No.: 2728 US0P

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed November 21, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed April 26, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 27, 2006.

On November 21, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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JENNIFER D. ADAMSON
SHELL OIL COMPANY
INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON, TEXAS 77252-2463

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of :
Melis Hasselaar et al. :
Application No. 10/276,290 : DECISION ON PETITION
Filed: February 19, 2003 : 37 CFR 1.137(b)
Attorney Docket No. T0891 US :

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

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 4, 2004, 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 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on January 5, 2005. See MPEP 1215.04.

A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance, an RCE or a Notice of Appeal (and appeal fee required by 37 CFR §1.17(b)). The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (RCE and amendment); (2) the petition fee of $1500.00 (for a large entity); and (3) the required statement of unintentional delay have been received. Accordingly, the reply is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to Technology Center AU 1621 for appropriate action on the concurrently filed amendment.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/17/09

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 10276298 Patent No.: 6967486

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Patrick Assouad/ AU2858

SPE Art Unit

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JUL 20 2004

DCM

In re Application of	:	
Martin Hendrik Van Der Doe	:	
Serial Number: 10/276,299	:	PETITION UNDER
Filed: November 22, 2002	:	MPEP 708.02 VIII
For: DEVICE AND METHOD FOR FRYING PRODUCT	:	

This is in response to the Petition to Make Special filed May 6, 2004, 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

Robert J. Patch
YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON VA 22202

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07 JUL 2003

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Armstrong, Westerman, & Hattori, LLP
Suite 1000, 1725 K Street, N.W.
Washington, D.C. 20006

In re Application of	:	DECISION ON
ITATANI et al	:	
PCT No.: PCT/JP01/04437	:	
Application No.: 10/276,301	:	PAPERS FILED
Int. Filing Date: 28 May 2001	:	
Priority Date: 29 May 2000	:	
Attorney's Docket No.: 021151	:	UNDER 37 CFR 1.42
For: PROCESSING APPARATUS FOR SUBJECT AND PLASMA SYSTEM USING THE SAME	:	

This is a decision on the declaration filed 22 November 2002 (2002) RB, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 22 November 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a declaration indicating that Ryohei ITATANI is the legal representative of the deceased inventor, Toshiaki ISHIKAWA.

DISCUSSION

The aforementioned international application may not commence entry to the national stage phase because the declaration does not comply with 37 C.F.R. §1.497(b)(2).

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

The declaration is signed by joint co-inventor Ryohei ITATANI who is also serving as the legal representative of the deceased inventor, Toshiaki ISHIKAWA, and it includes the citizenship, residence, and mailing addresses of Ryohei ITATANI (legal representative). The citizenship indicated under the name of the deceased inventor is presumed to be that of the deceased inventor. If this presumption is incorrect, applicants must immediately notify the PCT Legal Office. Accordingly, applicants have satisfied the requirements under 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the renewed submission under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for preparation and mailing of the Notification of Acceptance of Application under 35 USC 371 (form PCT/DO/EO/903) indicating a date of **22 November 2002** under 35 USC 371.

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

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OFFICE OF PETITIONS

Applicant: Lynggaard et al.
Appl. No.: 10/276,309
International Filing Date: September 21, 2001
U.S. Patent No.: 6,943,257
Issue Date: September 13, 2005
Title: PROCESS FOR PREPARATION OF AROMATIC HALIDES FROM AROMATIC AMINES
Attorney Docket No.: P22720.A03
Pub. No.: US 2004/0092728 A1
Pub. Date: May 13, 2004

This is in response to the "Request for Corrected/Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on July 13, 2004 and November 11, 2004, for the above-identified application.

The request is DISMISSED as moot.

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]

Since the application has already issued as U.S. Patent No. 6,943,257 on September 13, 2005, the request is deemed moot.

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

[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).

13 OCT 2004

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Corwin P. Umbach
OBLON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of
P.J. WALLS
Application No.: 10/276,331
PCT No.: PCT/JP02/02720
Int. Filing Date: 20 March 2002
Priority Date: 26 March 2001
Attorney's Docket No.: 230833US3PCT
For: HEAT TREATMENT APPARATUS FOR OXIDATION AND OPERATING METHOD OF THE APPARATUS

Dear Mr. Umbach:

This is in response to your communication received 06 October 2004 requesting the status of U.S. application 10/276,331. U.S. application 10/276,331 is **ABANDONED.** A response to the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905 mailed 03 June 2003) is not of record in the application file.

This application is being returned to the DO/EO for mailing of a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909).

Richard Cole
PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/RC:jf

Tel: (703) 308-6154
Fax: (703) 308-6459

04 FEB 2005

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

In re Application of	:	
YAMAGUCHI, Masanao	:	DECISIION ON
Application No.: 10/276,331	:	
PCT No.: PCT/JP02/027720	:	
Int. Filing Date: 20 March 2002	:	
Priority Date: 26 March 2001	:	PETITION
Attorney's Docket No.: 230833US3PCT	:	
For: FLAME RESISTANT RENDERING HEAT	:	
TREATING DEVICE, AND OPERATION	:	UNDER 37 CFR 1.181
MEHTOD FOR THE DEVICE	:	

This decision is in response to the "PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT" filed 04 November 2004, requesting acceptance of a copy of the declaration/power of attorney purportedly timely filed in the USPTO on November 10, 2003. Applicant has submitted, inter alia, a copy of the 10 November 2003 USPTO stamped itemized postcard receipt. The itemized postcard lists, *inter alia*, the following item: declaration/power of attorney.

BACKGROUND

On 26 November 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application. Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter at such time.

On 03 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the international application number and international filing date. Also that a $130 surcharge for providing the oath or declaration later than 30 months from the priority date. The notification indicated that all of the items set forth above must be submitted within two (2) months from date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 20 October 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that applicant had failed to respond to the "NOTIFICATION OF MISSING REQUIREMENTS (PCT/DO/EO/905), mailed 06/03/2003 within the time period set therein. Accordingly the application was abandoned.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 20 October 2004, petitioner submitted on 04 November 2004 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of November 10, 2003.

DISCUSSION

Petitioner's petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the USPTO as indicated in the stamped postcard:

(1) Response to Notice of Missing Requirement Under 35 USC 371
(2) Combined Declaration, Petition & Power of Attorney

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

MPEP 503 provides:

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

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

Accordingly, the date of receipt for the Declaration is 10 November 2003, which is timely because the 32 month from the priority date to response to the Notice of Missing Requirements was 26 November 26, 2003.

DECISION

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

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C.§ 371 date of **10 November 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

08 SEP 2006

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

In re Application of :
YAMAGUCHI, Masanao :
Application No.: 10/276,331 :
PCT No.: PCT/JP02/27720 : DECISION
Int. Filing Date: 20 March 2002 :
Priority Date: 26 March 2001 :
Attorney Docket No.: 230833US3PCT :
For: FLAME RESISTANT RENDERING HEAT TREATING DEVICE, AND OPERATION METHOD FOR THE DEVICE :

This decision is issued in response to applicant's "Request for Corrected Filing Official Filing Receipt" filed 05 April 2005. No petition fee is due.

BACKGROUND

On 26 November 2002, applicant timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application; and a copy of the international search report.

On 10 November 2003, applicant submitted an executed declaration.

On 24 February 2005, the United States Designated/Elected Office (DO/EO/US) mailed 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) which set forth a 35 U.S.C. 371 completion date of 11 November 2003.

On 05 April 2005, applicant filed "Request for Corrected Filing Receipt" which included a copy of the declaration and power of attorney and a postcard receipt dated 10 November 2003.

DISCUSSION

Applicant requests a corrected filing date (or 371(c) date) from 11 November 2003 to 10 November 2003. The actual filing date of the present application is the international filing date, i.e., 20 March 2002. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP

§1895.01) A review of the application file reveals that the declaration was filed with the USPTO on 10 November 2003, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 10 November 2003 is proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 10 November 2003. (See MPEP section 1893.03(b)).

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

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 on 24 February 2005 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) and Official Filing Receipt which identifies a date of 10 November 2003 under 35 U.S.C. 371(c).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (571) 272-3298
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/22/04

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction on Patent No.: 6784250

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

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

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

Lamonte Newsome
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

Correction of Terminal Disclaimer information on face of patent is approved

SPE

1711
Art Unit

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THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

Mail Date: 04/20/2010

Applicant	: Min-Hyo Seo	: DECISION ON REQUEST FOR
Patent Number	: 7550157	: RECALCULATION of PATENT
Issue Date	: 06/23/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/276,352	: OF WYETH
Filed	: 11/12/2002	:
		:

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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SAN JOSE CA 95164-0640

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In re Application of
Alain Riwan et al.
Application No. 10/276,354
Filed: November 12, 2002
Attorney Docket No. 034299-475

ON PETITION

This is a decision on the petition, filed April 3, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed June 29, 2004. A response was due not later than September 29, 2004. A response in the form of an amendment was filed December 29, 2004 with a three month extension of time request. On March 15, 2005 the applicant was advised that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the March 15, 2005 Notice. Thus the application became abandoned April 16, 2005. Accordingly, a Notice of Abandonment was mailed March 22, 2006.

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 3682 for processing of the amendment.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MADSON & AUSTIN
GATEWAY TOWER WEST, SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY, UT 84101

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JAN 18 2006

OFFICE OF PETITIONS

In re Application of :
Mark S. Evans et al :
Application No. 10/276,361 : DECISION ON PETITION
Filed: June 5, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3345.2.1.2 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 17, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application (No. 60/204,609, filed May 16, 2000) set forth in the concurrently filed amendment.

The petition is **GRANTED**..

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

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

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an

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

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

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

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 2121 for appropriate action on the amendment submitted October 17, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/204,609.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

---

[1] 37 CFR 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the language required by 37 CFR 1.78(a)(6), the statement will be construed as the required statement. If this is an incorrect reading of the statement, petitioner must promptly notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CRAIG J. MADSON
MADSON & AUSTIN
15 WEST SOUTH TEMPLE
SUITE 900
SALT LAKE CITY, UTAH 84101

COPY MAILED

JUN 26 2007

OFFICE OF PETITIONS

In re Application of :
Mark S. Evans et al :
Application No. 10/276,361 : DECISION ON PETITION
Filed: June 5, 2003 :
Attorney Docket No. 3345.2.1.2 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

No Notice of Abandonment has been mailed in this application. However, the application became abandoned, by operation of law, for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 25, 2006, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 27, 2007 (March 25, 2007, was a Sunday).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, the $395 filing fee, and submission (previously filed on March 27, 2007) as required by 37 CFR 1.114, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of October 25, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2121 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 filed March 23, 2007.

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
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ALEXANDRIA, VA 22313-1450
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JOEL D. SKINNER, JR.
SKINNER AND ASSOCIATES
212 COMMERCIAL ST.
HUDSON, WI 54016

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of :
KUKKONEN, Pertti et al. :
Application No.: 10/276,379 :
Filing Date: March 12, 2003 :
Docket No.: PAT139USA :
For: METHOD FOR PROTECTING :
REINFORCEMENT IN CONCRETE :
FROM CHLORIDE CORROSION :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on November 15, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed September 11, 2003, which set a shortened statutory period for reply of three (3) months. The application went abandoned on December 12, 2003. A Notice of Abandonment was mailed on April 27, 2004.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the reply in the form of an amendment, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the extension of time submitted with the petition was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to Deposit Account No. 19-2381.

This application is being referred to Technology Center 1744 for continued processing.

Erin Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Brian Hearn
Petitions Examiner
Office of Petitions

SPE K. Easthom

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/9/06 Paper No.: _____

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/276,408 Patent No.: 6836097

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: _____

_____

_____

_____

_____

_____ 2838

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/28/08

Paper No.: ---

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/276413 Patent No: 7276293B1

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: _____

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER

SPE 1794 **Art Unit**

01 AUG 2005

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Earle Jennings
8 Kenyon Avenue
Kensington, CA 94708

In re Application of:	:	
JENNINGS, Earle, Willis	:	
U.S. Application No.: 10/276,414	:	
PCT No.: PCT/US01/15541	:	DECISION ON PETITION TO
International Filing Date: 14 May 2001	:	REVIVE ABANDONED
Priority Date: 15 May 2000	:	APPLICATION UNDER 37 CFR
Attorney's Docket No.: ARITH001US	:	1.137(b)
For: METHOD AND APPARATUS OF DSP	:	
RESOURCE ALLOCATION AND USE	:	

This decision is issued in response to applicant's "Petition To Revive" filed on 20 July 2005. The required petition fee has not been paid.[1]

BACKGROUND

On 14 May 2001, applicant filed international application PCT/US01/15541 which claimed a priority date of 15 May 2000 and which designated the United States.

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 15 November 2002.

On 12 November 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee and an unexecuted declaration.

On 24 March 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 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

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[1] The present submission (in which a copy of the Petition To Revive was included) asserts that the Petition To Revive, with accompanying declaration and fee payment, were originally filed on 08 December 2004. However, the 20 July 2005 submission was not signed by the agent and therefore cannot be treated as a petition to confirm the earlier filing. It is noted that this submission also states that the fee payment checks purportedly filed on 08 December 2004 were never cashed by the USPTO.

On 06 October 2004, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the Notification Of Missing Requirements mailed 24 March 2003.

On 20 July 2005, applicant filed the submission considered in part herein. The submission asserts that, on 08 December 2004, applicant filed materials responsive to the Notification Of Abandonment, specifically, a "Petition To Revive" under 37 CFR 1.137(b), an executed declaration, and three checks in payment of the required petition fee and surcharge. Copies of these materials were included with the 20 July 2005 submission. As noted above, the 20 July 2005 submission was an unsigned communication and, as such, cannot itself be considered as a petition to confirm the 08 December 2004 filing of the attached materials. However, because the copy of the Petition To Revive included with the 20 July 2005 submission was signed by the agent, the Petition To Revive can be considered at this time.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Regarding item (1), the "required reply," section 711.03(c) of the Manual of Patent Examining Procedures states that:

> [g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.

Here, the application became abandoned for failure to respond to the Notification Of Missing Requirements. Accordingly, the "required reply" is a proper response to the Notification Of Missing Requirements, that is, an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date. Applicant here has not submitted these materials. The one-page declaration document included with the petition is incomplete, as it is identified as "Page 2 of 2" and does not include all the statements required by 37 CFR 1.497(a); applicant must submit the complete executed declaration. In addition, the USPTO has no record of receiving the surcharge payment. Based on the above, applicant has not yet submitted the "required reply." Item (1) is not satisfied.

Item (2) is the petition fee. The Petition To Revive was purportedly accompanied by checks for the $750 small entity petition fee; however, the USPTO has no record of receiving this payment, and applicant states in the present unsigned communication that the submitted checks were never cashed. Item (2) is not satisfied.

As for item (3), the Petition To Revive states that "This application was unintentionally abandoned. The entire delay in filing the required reply from the due date until the filing of this petition was unintentional." However, it is not clear what application this statement is referring to, as the caption of the Petition To Revive identifies the application number as 10/081,557 rather than the present application number. Because it is not clear that the provided statement is referring to the present application, the statement contained in the Petition To Revive cannot be accepted. Item (3) is therefore not satisfied.

Under the terms of 37 CFR 1.137(c), the terminal disclaimer listed as item (4) above is not required for this application. Item (4) therefore does not apply to the present case.

Because applicant's Petition To Revive does not satisfy all the requirements of 37 CFR 1.137(b), the petition cannot be granted.

CONCLUSION

Applicant's Petition To Revive 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. Any reconsideration request should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and must include the additional statement and materials needed to satisfy the requirements of a grantable petition, that is: (1) the "required reply" (i.e., a complete, executed declaration in compliance with 37 CFR 1.497 and surcharge payment); (2) the applicable petition fee; and (3) a statement, properly directed to the present application, confirming 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.

Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

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Earle Jennings
8 Kenyon Avenue
Kensington, CA 94708

In re Application of:	
JENNINGS, Earle, Willis	
U.S. Application No.: 10/276,414	
PCT No.: PCT/US01/15541	DECISION ON PETITION TO
International Filing Date: 14 May 2001	REVIVE ABANDONED
Priority Date: 15 May 2000	APPLICATION UNDER
Attorney's Docket No.: ARITH001US	37 CFR 1.137(b)
For: METHOD AND APPARATUS OF DSP RESOURCE ALLOCATION AND USE	

This decision is issued in response to applicant's "Petition To Revive" filed on 03 October 2005. The required petition fee has been paid.

BACKGROUND

The procedural background for this application was set forth in detail in the decision mailed by this Office on 01 August 2005. In that decision, applicant's petition under 37 CFR 1.137(b) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicant had failed to submit: (1) the "required reply" (i.e., an acceptable declaration and the surcharge payment for filing the declaration later than thirty months after the priority date); (2) the petition fee; and (3) the statement of unintentional delay.

On 03 October 2005, applicant filed the a second petition for revival under 37 CFR 1.137(b), considered herein.

DISCUSSION

The present petition included 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 pursuant to this paragraph was unintentional," satisfying two of the three outstanding requirements for a grantable petition. However, as discussed below, applicant has failed to satisfy the remaining requirement, that is, submission of the "required reply."

As set forth in the previous decision, the "required reply" here is a proper response to the Notification Of Missing Requirements mailed 24 March 2003, that is, an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date. The present submission includes a declaration in compliance with 37 CFR 1.497. However, as noted in the previous decision, the USPTO has no record of

receiving the required surcharge payment, and applicant has not included payment of the surcharge with the present petition. Because applicant has not yet submitted the surcharge payment, the "required reply" element of a grantable petition is not satisfied.

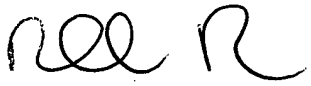
CONCLUSION

Applicant's Petition To Revive 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. Any reconsideration request should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and must include payment of the required surcharge for filing the declaration later than thirty months after the priority date.

Extensions of time may be obtained under 37 CFR 1.136(a).

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



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

12 JUL 2006
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Earle Jennings
8 Kenyon Avenue
Kensington, CA 94708

In re Application of:	
JENNINGS, Earle, Willis	
U.S. Application No.: 10/276,414	
PCT No.: PCT/US01/15541	DECISION ON
International Filing Date: 14 May 2001	RENEWED PETITION FOR
Priority Date: 15 May 2000	REVIVAL
Attorney's Docket No.: ARITH001US	(37 CFR 1.137(b))
For: METHOD AND APPARATUS OF DSP RESOURCE ALLOCATION AND USE	

This decision is issued in response to applicant's "Supplemental Paper Regarding The Petition To Revive Abandoned Application Under 37 CFR 1.137(b)" filed 05 July 2006, treated herein as a renewed petition for revival under 37 CFR 1.137(b).

As discussed below, the renewed petition for revival is **GRANTED.**

In a decision mailed on 13 October 2005, this Office dismissed applicant's petition for revival under 37 CFR 1.137(b) filed 03 October 2005 for failure to satisfy all the requirements of a grantable petition. Specifically, applicant had failed to submit the surcharge payment necessary to complete the "required reply." The decision set an extendable two month deadline for applicant to file a response.

Applicant failed to file a timely response to the 13 October 2005 decision; however, on 05 July 2006, applicant filed the "Supplemental Paper Regarding The Petition To Revive Abandoned Application Under 37 CFR 1.137(b)" considered as a renewed petition herein.

Applicant's 05 July 2006 submission included payment of the required surcharge and a statement from applicant regarding the apparent docketing error that resulted in applicant's delay in filing a response to the 13 October 2005 decision.

Applicant's statements in the "Supplemental Paper Regarding The Petition To Revive Abandoned Application Under 37 CFR 1.137(b)" filed 05 July 2006 are construed as the required statement that the entire delay in filing the response to the 13 October 2005 decision from the due date for such reply until the filing of the "Supplemental Paper" on 05 July 2006 was unintentional. If this is **not** a proper interpretation of applicant's statements, then applicant **must** inform this Office immediately.

Taking into consideration the above interpretation of the statements in the 05 July 2006 submission, as well as the surcharge payment included therewith and the materials submitted with the original petition for revival on 03 October 2005, applicant has now satisfied the requirements for a grantable petition for revival under 37 CFR 1.137(b).

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 03 October 2005.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
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Facsimile: (571) 273-0459

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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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SEP 2 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Kenji Yoshino et al	:	
Application No. 10/276,432	:	DECISION GRANTING PETITION
Filed: April 8, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SONYJP 3.3-244	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 16, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2132 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Sept9\276432.wpd

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081218

DATE : August 13, 2008

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 6,906,293

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/TU B HOANG/
Supervisory Patent Examiner.Art Unit 3742

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#6

12 JUN 2003

Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of LAERMER et al	:	
U.S. Application No.: 10/276,438	:	
PCT Application No.: PCT/DE01/01778	:	DECISION
Int. Filing Date: 10 May 2001	:	
Priority Date Claimed: 19 May 2000	:	
Attorney Docket No.: 10191/2837	:	
For: PLASMA ETCHING EQUIPMENT	:	

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 04 June 2003.

BACKGROUND

On 10 May 2001, applicant filed international application PCT/DE01/01778, which claimed priority of an earlier Germany application filed 19 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 22 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 October 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 19 November 2002.

On 15 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 04 March 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 04 April 2003, applicant filed an executed declaration.

On 01 May 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 04 April 2003 was not properly executed.

On 04 June 2003, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The second inventor's name in international application PCT/DE01/01778 is listed as "Andrea Schilp", whereas the second inventor's name on the declaration is listed as "Andrea Urban".

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant has filed a petition under 37 CFR 1.182 along with the required fee. However, the affidavit accompanying the petition is not signed with both names as required by MPEP 605.04(c).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 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. 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 1.182". 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.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

29 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of LAERMER et al	:	
U.S. Application No.: 10/276,438	:	
PCT Application No.: PCT/DE01/01778	:	DECISION
Int. Filing Date: 10 May 2001	:	
Priority Date Claimed: 19 May 2000	:	
Attorney Docket No.: 10191/2837	:	
For: PLASMA ETCHING EQUIPMENT	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.182" filed 17 July 2003.

BACKGROUND

On 10 May 2001, applicant filed international application PCT/DE01/01778, which claimed priority of an earlier Germany application filed 19 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 22 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 October 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 19 November 2002.

On 15 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 04 March 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 04 April 2003, applicant filed an executed declaration.

On 01 May 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 04 April 2003 was not properly executed.

On 04 June 2003, applicant filed a petition under 37 CFR 1.182.

On 12 June 2003, this Office mailed a decision dismissing the 04 June 2003 petition.

On 17 July 2003, applicant filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

The second inventor's name in international application PCT/DE01/01778 is listed as "Andrea Schilp", whereas the second inventor's name on the declaration is listed as "Andrea Urban".

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The renewed petition is accompanied by an affidavit signed with both names and setting forth the procedure whereby the change of name was effected.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 May 2001, and a date under 35 U.S.C. 371(c) of 04 April 2003.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Franz Laermer	: DECISION ON REQUEST FOR
Patent Number	: 7648611	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/276,438	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2003	: 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

#4

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WASHINGTON, D.C. 20231
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29 APR 2003

Raymond M. Galasso
Simon, Galasso & Frantz PLC
P.O. Box 26503
Austin, TX 78755-0503

In re Application of WOOD et al	:	
U.S. Application No.: 10/276,440	:	
Int. Application No.: PCT/US01/15821	:	DECISION
Int. Filing Date: 16 May 2001	:	
Priority Date: 18 May 2000	:	
Attorney Docket No.: SUPACHILL01.US	:	
For: COOLING METHOD FOR CONTROLLED HIGH SPEED CHILLING OR FREEZING	:	

This is in response to applicant's "Petition for Revival of Unintentionally Abandoned National Stage United States Non-Provisional Patent Application From International Application Pursuant to 37 CFR 1.137(b)" filed 09 April 2003.

BACKGROUND

On 16 May 2001, applicant filed international application PCT/US01/15821, which claimed priority of an earlier United States application filed 18 May 2000. The twenty-month[1] period for paying the basic national fee in the United States expired at midnight on 18 January 2002.

On 15 November 2002, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, an authorization to charge the basic national fee required by 35 U.S.C. 371(c)(1) to Deposit Account Number 50-1259.

On 13 March 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely pay the basic national fee.

---

[1] A review of the application file reveals that the United States Designated/Elected Office (DO/EO/US) has not received a Notification of Election (Form PCT/IB/331) from the International Bureau (IB) which indicates that the US was elected by 19 months from the priority date. Applicant may submit evidence that a Demand (Form PCT/IPEA/401), in which the U.S. was elected, was filed prior to the expiration of 19 months from the priority date.

On 09 April 2003, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

The petition states that $1,032.70 was present in Deposit Account No. 50-1259 to cover the basic national fee. Assuming *arguendo* that the United States was elected by nineteen months from the priority date, the requisite basic national fee due on 18 November 2002 (i.e. thirty months from the priority date) was $890.00. A review of the account statement for Deposit Account No. 50-1259 reveals that although $1,032.70 was present in the account on 15 November 2002, the available balance on 18 November 2002 was $872.70. A redacted copy of the account statement is attached to this decision. PCT Article 23 prohibits a designated Office from processing a national stage application prior to the national stage entry deadline unless applicant expressly requests early national stage processing. Because applicant did not expressly request early national stage processing (see box 3 in the Transmittal Letter, Form PTO-1390), the DO/EO/US was not permitted to attempt to withdraw funds from applicant's deposit account until 18 November 2002. The $872.70 account balance on 18 November 2002 was not enough to satisfy the requisite basic national fee, and thus the application became abandoned.

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

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

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

With regard to item (3), the petition states, "Any delay in providing/paying the full U.S. Basic National Fee for this patent application was unintentional and in fact caused by the United States Patent & Trademark Office." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

CONCLUSION

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

The application has an International Filing Date of 16 May 2001 and a date under 35 U.S.C. 371(c) of 09 April 2003.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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Facsimile: 703-308-6459

US 1027644005P1

Creation date: 10-23-2003
Indexing Officer: ACAHSAY - AWETASH CAHSAY
Team: OIPEBackFileIndexing
Dossier: 10276440

Legal Date: 04-09-2003

No.	Doccode	Number of pages
1	BIB	1

Total number of pages: 1

Remarks:

Order of re-scan issued on .....

15 MAY 200

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WASHINGTON, D.C. 20231
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Charles Berman
Greenberg Traurig LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, California 90404

In re Application of :
PEROTTI, Paolo :
Application No.: 10/276,452 : DECISION ON PETITION
PCT No.: PCT/IT01/00188 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 13 April 2001 :
Priority Date: 19 April 2000 :
Attorney Docket No.: 58009-015800 :
For: HIGH THERMAL EFFICIENCY HEAT EXCHANGER, PARTIALLY CORRUGATED SHEET METAL FOR HEAT EXCHANGERS . . . :

The petition to revive under 37 CFR 1.137(b) filed 18 November 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $445 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Deposit Account No. 50-1561 has been charged a $65.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **18 November 2002.**

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 4 2006

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of	:
Kern Lystrup et al	:
Serial No.: 10/276,463	: PETITION TO MAKE SPECIAL
Filed: April 21, 2003	:
Attorney Docket No.: GRP 0031	:

This is in response to applicants' petition filed March 7, 2006, 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 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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

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

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#3

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16 MAY 2003

Joseph Hyosuk Kim, Ph. D.
JHK Law
P. O. Box 1078
La Canada CA 91012-1078

In re Application of	:	
KIM et al.	:	
Application No.: 10/276,479	:	DECISION ON
PCT No.: PCT/KR00/01428	:	
Int. Filing Date: 08 December 2000	:	PETITION UNDER
Priority Date: 13 May 2000	:	
Attorney Docket No.: 58049-00010	:	37 CFR 1.137(b)
For: METHOD FOR CELL ADHESION AND WOUND HEALING	:	

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 14 November 2002.

BACKGROUND

On 08 December 2000, applicant filed international application PCT/KR00/01428, which claimed a priority date of 13 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 22 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 06 December 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 November 2002.

On 14 November 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, a declaration of inventors, and the instant "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

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

As to item (1), applicant submitted the basic national fee for a small entity on 14 November 2002.

As to item (2), applicant submitted the petition fee for a small entity on 14 November 2002.

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

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

The declaration of inventors filed 14 November 2002 is in compliance with 37 CFR 1.492(a)-(b).

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

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

Draft Petition Decision

Serial No. 10/276,479

Date of Draft 16 May 03

Legal Examiner Stemmer

Conferee Approval _____

Petitions Book Nos. _____

Petition Log Book No. _____

PALM Petition Code 272

___Charge Account No. _____

Fee _____	Code _____
Fee _____	Code _____
Fee _____	Code _____
Fee _____	Code _____

Granted ✓

Dismissed _____

Dismissed with Recomendation _____

07 MAY 2003

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B. Noel Kivlin
CONLEY, ROSE, & TAYON, P.C.
P.O. Box 398
Austin, Texas 78767

In re Application of	:	DECISION ON
Kruger et al	:	
Application No.: 10/276,481	:	
PCT No.: PCT/IB01/00784	:	PETITION
Int. Filing Date: 13 June 2000	:	
Priority Date: 15 June 1999	:	
Attorney's Docket No.: 5681-32700	:	UNDER 37 CFR 1.137(b)
For: MANAGEMENT OF NONMBEAM	:	
OBJECTS IN JMX ENVIRONMENT	:	

This decision is in response to applicants' "Petition To Revive Application Abandoned Unintentionally," filed on 15 November 2002, which is being treated as a petition under 37 CFR 1.137(b).

BACKGROUND

On 13 June 2000, this international application was filed, claiming an earliest priority date of 15 June 1999.

A Demand electing the United States was filed in this international application on 05 January 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 15 February 2001.

On 15 November 2002, applicants filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by, the basic national fee. No executed declaration or oath was submitted at this time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be

met by the filing of a continuing application; (2) the petition fee as set forth in § 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 this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Applicant's statement that "the entire delay in filing the above-referenced application was unintentional" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
Legal Examiner
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DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE, WA 98101-3045

Mail Date: 04/26/2010

Applicant	: Youngman Oh	: DECISION ON REQUEST FOR
Patent Number	: 7585497	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/276,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **476** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of :
Nasholm et al. :
Application No.: 10/276,494 :
PCT App. No.: PCT/SE01/01059 :
Int. Filing Date: 14 May 2001 :
Priority Date: 15 May 2000 :
Docket No.: Q72714 :
For: Nitrogen Containing Fertilizer :
For Plant Growth :

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on August 4, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed April 11, 2005, which set a shortened statutory period for reply of three (3) months. On September 12, 2005, a Notice of Appeal was filed. On May 5, 2006, a "Communication Re: Appeal" (Form PTOL-461) was mailed, indicating that the appeal was dismissed because the brief was not timely filed and that consequently "this application is abandoned because there are no allowed claims."

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination (and fee), paid the petition fee, and made the statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Since this application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center 1761 for continued processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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24 APR 2003

Fleit Kains Gibbons Gutman & Bongini
551 N W 77th Street
Suite 111
Boca Raton FL 33487

In re Application of	:	
DELL'OVA et al.	:	
Application No.: 10/276,509	:	DECISION ON
PCT No.: PCT/FR01/00750	:	
Int. Filing Date: 13 March 2001	:	PETITION UNDER
Priority Date: 14 March 2000	:	
Attorney Docket No.: 00-G0S-011	:	37 CFR 1.137(b)
For: METHOD OF ADJUSTING AN ELECTRICAL PARAMETER ON AN INTEGRATED CIRCUIT COMPONENT	:	

This decision is in response to applicant's "PETITION FOR REVIVAL OF UNINTENTIONALLY ABANDONED INTERNATIONAL APPLICATION DESIGNATING THE U.S. UNDER 37 C.F.R § 1.137(b)" filed 15 November 2002.

BACKGROUND

On 13 March 2001, applicants filed international application PCT/FR01/00750, which claimed a priority date of 14 March 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 September 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 September 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 16 September 2002 (14 September 2002 being a Saturday).

On 15 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English language translation of the application as filed, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, an authorization to charge Deposit Account 50-1556 for any additional fees which may be required; and the instant "PETITION FOR REVIVAL OF UNINTENTIONALLY ABANDONED INTERNATIONAL APPLICATION DESIGNATING THE U.S. UNDER 37 C.F.R § 1.137(b)"

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(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 was unintentional.

As to item (1), applicants submitted the basic national fee on 15 November 2002.

As to item (2), applicants submitted the petition fee on 15 November 2002.

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

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

The processing fee of $130 for furnishing the English translation later than thirty months form the priority date has been charged to Deposit Account 50-1556.

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Daniel Stemmer
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17 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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GREENLEE, WINNER and SULLIVAN, P.C.
5370 Manhattan Circle, Suite 201
Boulder, CO 80303

In re Application of
RAINES, Ronald T. *et al*
U.S. Application No.: 10/276,515
PCT No.: PCT/US01/15440
Int. Filing Date: 11 May 2001
Priority Date: 12 May 2000
Attorney Docket No.: 50-00
For: LIGATION AND REAGENTS TO FORM AN AMIDE BOND

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

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 15 November 2002 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee for a small entity have been paid. Applicants state that "[t]he U.S. National Stage application was not timely filed due to an inadvertent error. Thus, the abandonment of the application was unintentional" has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). If this is an incorrect interpretation, applicants are requested to notify this office. A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

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

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

Mail Date: 06/09/2010

Applicant	: Michael Holroyd	: DECISION ON REQUEST FOR
Patent Number	: 7637260	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/276,531	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **876** 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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FAY SHARPE FAGAN MINNICH & MCKEE
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1100 SUPERIOR AVE
CLEVELAND OH 44114-2518

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SEP 11 2006

OFFICE OF PETITIONS

In re Patent No. 6,866,985	:	
Issued: 15 March, 2005	:	
Application No. 10/276,536	:	ON PETITION
Filed: 13 November, 2002	:	
Atty Dckt No. SHEE 2 00007	:	

This is a decision on the petition filed on 18 January, 2006, styled under 37 CFR 1.183, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

As the error in assignee identification was due to an error on the part of petitioner, and not to any error on the part of the USPTO, the certificate of correction fee of $100.00 will be charged to counsel's deposit account, as authorized in the Certificate of Correction request filed on 28 May, 2005.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of :
Finazzi :
Application No. 10/276,557 : LETTER AND NOTICE OF
Filed: November 18, 2002 : NON ENTRY OF THIRD PARTY
PG Pub: US20040100869A1 5/27/2004 : PAPERS

This application is before this office due to several documents filed by a third party on February 7, 2006, including (1) a "petition" styled as being filed under 37 CFR 1.313(c)(2) to withdraw this application from issue and consider the accompanying (2)IDS and (3) RCE, (4) a purported revocation of the current power of attorney and change of correspondence address by way of 37 CFR 3.73(b) by the alleged assignee of the entire interest, British Master SA (hereinafter "BM"), a purported appointment thereby of various counsel associated via customer No. 22,850 to the firm and address of Oblon Spivak McClelland Maier & Neustadt ("OSMMN"), and (5) various declarations and exhibits that are contended to show that BM is the assignee of the entire interest of the instant application.

Since this application was the subject of a pre grant publication (PG Pub) prior to the filing of the above-noted documents, the provisions of the statute (35 U.S.C. § 122(c)) the applicable rules (*e.g.*, 37 CFR §§ 1.99, 1.291, and 1.292) and procedures(e.g., MPEP §§ 1134.01, 1901.06) now place stringent limitations on the treatment, or even on the retention *vel non* in this file, of any third party submissions that protest, oppose the grant of, or seek to have other information entered and considered in, this application. See also *Third Party Attempts to Protest or Otherwise Oppose the Grant of a Published Application*, 1269 *Off. Gaz. Pat. Office* 179 (April 22, 2003)

The instant third party attempt to oppose the issuance of a patent to this application appears in the guise of an attempted proceeding under the provisions of 37 CFR 3.73(b) by the putative assignee of the entire interest, BM, to intervene in the prosecution to the exclusion of the named inventor, revoke the named inventor's freely chosen counsel, appoint its own counsel, change the correspondence address, and withdraw this application from issue and reopen prosecution, which necessarily also entails the consideration of numerous pages of information submitted in support of the proposed action taking.

Under 37 CFR 3.71, the assignee of the entire interest may prosecute an application to the exclusion of the named inventor(s), or any previous assignee, and also revoke, or appoint, a power of attorney in an application or patent. Pursuant to 37 CFR 3.73(b) and MPEP 324, that assignee must present its showing to the Office, either prior to, or concurrently with, the paper that requests the action, and that documentiaotn must be recorded at the USPTO.[1] A party must establish that it is the owner of the entire interest, as the owner of only a part interest in an application does not have the sole right to control prosecution of the application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (e.g., 37 CFR 3.73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the entire interest in the application or patent. See Goldstein, 16 USPQ2d at 1964.

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), and unless there is an assignment, the USPTO will presume the named inventor to be the owner. See 37 CFR 3.73(a). Inspection of USPTO assignment records for the instant application fails to reveal that any written instrument has been recorded, or submitted for recordation, against this application, signed by Finazzi, that conveys his right title and interest herein to any other party, much less BM. Accordingly Finazzi is presumed to retain his ownership interest herein. See 37 CFR 3.73(a). It follows that BM is not the assignee of the entire interest of the above-identified application within the meaning of 37 CFR 3.71(a)(1), and as such BM is and remains a third party to the proceedings of this application.

---

[1] 37 CFR 3.11 *et seq.*, especially 37 CFR 3.21, require that an assignment (not just the recordation cover sheet of 37 CFR 3.31) specifically identify the *application* against which the assignment is to be recorded, which merely codify long-extant USPTO requirements. See Ex Parte Williamson, 1899 C.D. 177, 178 (Comm'r Pat. 1899); In re Aerial Tel. and Power Co., 1912 C.D. 24 (Comm'r Pat. 1912). A distinction must be made between a property right to an "invention," and a property right to a patent application, as a given patent application may or may not embody that "invention." The relevant statutes and regulations only speak to the recordation of the assignment of "applications for patent", not inventions. See, e.g., 35 USC § 261 and 37 CFR 3.11 et seq. Likewise, while 35 USC § 100 defines invention, § 100 does not define invention as being synonymous with, or meaning, "application for patent." This distinction is further evident from inspection of other sections of Title 35: e.g., 35 §§ 111, 119, 120, 121, 131.

Indeed, the third party papers admit that "Mr. Finazzi...has refused to sign an assignment for the present application and has refused to allow the British Masters S.A. to prosecute this..application." The third party papers either fail to realize, or conveniently ignore, the fact that the lack of a written document bearing Finazzi's signature conveying his right title and interest in this application to BM is fatal to their burden of proving that BM is the assignee of the entire interest herein for purposes of intervening under 37 CFR 3.73(b). Indeed, the above-quoted description of Mr. Finazzi's actions (or inactions) is the antithesis of a clear and unmistakable intent to transfer his ownership of this application to BM.

Thus, BM is not the assignee of the rights of Finazzi, within the meaning of 35 U.S.C. § 261 and 37 CFR 3.73(b) in the absence of Finazzi's signature on an assignment. In order for an instrument to be considered an assignment under the law in and of the United States, the conveyance **must be in writing.** See 35 U.S.C.A. § 261 n. 128. Further, that conveyance **must necessarily be executed by the assignor.** See 35 U.S.C.A. § 261 n. 136; Ashcroft v. Walworth, C.C. Mass 1872, Holmes 152, Fed. Cas. No. 580. Specifically, the assignment must be "in writing" in order to be valid or recognized by the USPTO. Standard Computing Scale Co. v. Lincoln Scale Corp., 57 F.2d 334, 11 USPQ 246 (W.D. Pa. 1931). In other words, the written conveyance must be duly signed by the assignor. American Tobacco v. Ascot Tobacco Works, 165 F. 207 (C.C. N.Y. 1908). While a valid assignment need not be executed under seal, the assignment must nevertheless be executed by the assignor. Gottfried v. Miller, 104 U.S. 521, 26 L.Ed. 851, 1882 C.D. 120. As noted in University Patents, Inc. v. Kligman, supra:

> Assignment of patent must be in writing, and writing must show clear and unmistakable intent to transfer ownership and **must be executed by patentee** or by patentee's assigns or legal representatives(emphasis added).

As it is undisputed that Finazzi has not executed (indeed, has refused to execute) an instrument in writing that assigned his rights title and interest in this application to BM, any contention that BM is the assignee of Finazzi's interest must be regarded as untenable.

The remainder of the lengthy showing attempted to overcome the above-noted fatal lack of an executed assignment of this application by assertions to the effect that under applicable Swiss law, this application would be considered "assigned" to BM, that Finazzi according to his employment agreement with BM had an obligation to assign his inventions to BM[2], and that Finazzi has assigned other U.S.

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[2] An employment agreement is *not* an assignment. An agreement to assign in the future inventions not yet developed may vest the promisee with equitable rights in those inventions once made; however, such an agreement does not *by itself* vest legal title to patents on the inventions in the promisee. Arachnid v. Merit Industries, 939 F.2d 1574, 19 USPQ2d 1513, 1518 (Fed. Cir. 1991).

and foreign applications to BM[3]. However, these assertions merely underscore, but cannot overcome, the conspicuous lack of a written executed assignment for this application under applicable U.S. law, regulation and practice. See 35 U.S.C. § 261[4] and 37 CFR 3.73(a).

Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title, or convert whatever equitable title that might exist in this application for the third party simply by inspection of the documents upon which the third party relied. Rather, a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2D 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W. 2d 400, 33 USPQ2D 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900)(same).

The USPTO will not (and in any event cannot) determine whether Finazzi's position at BM operated to convey his rights in the invention set forth in this application to BM. Further in this regard, the PTO has consistently interpreted the applicable statutes and regulations relating to the recording and effect of assignment documents in the USPTO as applying only to instruments which on their face affect title to a patent or application. See In re Farrand, 1912 C.D. 227 (Comm'r Pat. 1912); In re Charlton, 1903 C.D. 159 (Comm'r Pat. 1903). It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See Ex Parte Harrison, 1925 Dec.

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[3]As noted in Ex parte Williamson, 1899 C.D. 177, 178 (Comm'r Pat. 1899),where the putative assignee of the entire interest sought to intervene to the exclusion of the inventor in another case:

> This request cannot be granted, for it is well settled that in order to warrant this Office in recognizing an assignee in the prosecution of an application, or in issuing the patent to him, the assignment must clearly identify the particular application referred to...
> It is possible that the assignment mentioned above has reference to the invention covered by application No. 720,206; but there is no certainty of this and in such matters the Office requires certainty and not mere probability to justify its action (citations omitted).

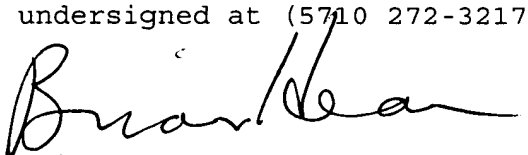
[4]35 U.S.C. § 261 notes that patents have the attributes of personal property and states in pertinent part that:"[a]pplications for patent, patents, or any interest therein shall be assignable in law by an instrument in writing."

Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892). Rather, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), *cert. denied*, 114 S. Ct. (1994). The PTO has long declined to make a determination as to whether a given instrument which purports to be an assignment of the rights to an "invention" operates to convey the rights for a given application. See e.g., Ex Parte Lorentz, 1892 C.D. 77, 78 (Comm'r Pat. 1892); Ex Parte Chillingsworth, 1897 C.D. 72 (Comm'r Pat. 1897); Ex parte Williamson, 1899 C.D. 177, 178 (Comm'r Pat. 1899); Ex Parte Long, 1903 C.D. 152, 153 (Comm'r Pat. 1903).

That is, the PTO will not make a determination whether the "invention" set forth in any of the other foreign and domestic design and utility patents, is sufficient to convey Finazzi's rights in this application to BM. See Chillingsworth, supra; Long, supra. The PTO has long declined to make a determination as to whether a given instrument which purports to be an assignment of the rights to an "invention" operates to convey the rights for a given application. See e.g., Ex Parte Lorentz, 1892 C.D. 77, 78 (Comm'r Pat. 1892); Ex Parte Chillingsworth, Id.; Williamson, *Id.* Likewise, the PTO will not make a determination whether the work agreement or applicable Swiss law, is sufficient to convey Finazzi's rights in this application to BM. See Chillingsworth, supra; Long, supra.

For the reasons given above, rather than being the putative assignee of the entire interest, BM is and remains at this time a third party to this application. As such, and given the total lack of compliance with either of the two regulations (37 CFR §§ 1.99 and 1.291) governing third party submissions of information in a published application, the documents submitted by the third party on February 6, 2006 cannot be permitted to remain in the file. Rather, as indicated in MPEP 1901.06 subsection V(a)(2), the original papers (no service on applicant was indicated) are being sent to the applicant. This communication is also the notice of non entry. See MPEP 1901.06 subsection V(a)(2).

Telephone inquiries related to this decision may be addressed to the undersigned at (571) 272-3217.



Brian Hearn
Petitions Examiner
Office of Petitions

Enclosure: Third Party Papers filed February 6, 2006

26 SEP 2003
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Gregory P. LaPointe
Bachman & LaPointe PC
900 Chapel Street, Suite 1201
New Haven, CT 06510-2802

In re Application of :
KLAAS, Kai :
Application No.: 10/276,580 : DECISION ON
PCT No.: PCT/EP01/05450 :
Int. Filing Date: 14 May 2001 : PETITION
Priority Date: 13 May 2000 :
Attorney's Docket No.: 02-732 : UNDER 37 CFR 1.181
For: METHOD AND DEVICE FOR :
DETERMINING THE MIXTURE :
COMPOSITION OF A LIQUID :

This is a decision on applicant's "Response to Notification of Defective Response," filed 07 August 2003. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 14 May 2001, applicant filed international application PCT/EP01/05450, which claimed a priority date of 13 May 2000. A copy of the international application was transmitted to the Office by the International Bureau on 22 November 2001. On 04 December 2001, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 13 November 2002.

On 13 November 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 15 May 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 30 June 2003, applicant submitted a declaration executed by Kia Klaas.

On 22 July 2003, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that Gerd H. Arnold was an inventor and had not signed the declaration.

On 07 August 2003, applicant submitted the instant petition indicating that Mr. Arnold was not an inventor.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventors who submitted an application under §1.494 or §1.495 are the inventors in the international application designating the United States. The inventors in the international application include the inventors named upon filing of the international application or resulting from any changes made under Rule 92*bis* in the international stage. The record does not reflect any such requests under Rule 92*bis* during the international stage.

The inventor in the international application is Kia Klaas. The inventor on the declaration is Kia Klaas. Mr. Gerd H. Arnold is listed as applicant for all states other than the United States. As such, the declaration executed by Kia Klaas alone, complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the Petition Under 37 CFR 1.181 is **GRANTED**.

The Notification of Defective Response mailed 22 July 2003 is **VACATED**.

The application has an international filing date of 14 May 2001 under 35 U.S.C. §363 and a date of 30 June 2003 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
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OFFICE OF PETITIONS

EGBERT LAW OFFICES
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HOUSTON TX 77002

In re Application of
Denis Roudot
Application No. 10/276,596
Filed: March 25, 2003
Attorney Docket No. 1429-109

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed June 5, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed November 21, 2005. A shortened statutory period of three months was set for replying Final Office Action. No extensions of time having been filed, the application became abandoned February 22, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

---

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

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

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

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

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

In response to the Final Office Action mailed November 21, 2005, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2163 for processing of the RCE and submission.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

#5

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09 MAY 2003

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Joseph Hyosuk Kim, Ph. D.
JHK Law
P.O. Box 1078
La Canada, CA 91012-1078

In re Application of	:	DECISION ON
KIM et al	:	
Application No.: 10/276,601	:	
PCT No.: PCT/KR00/01413	:	PETITION UNDER
Int. Filing Date: 06 December 2000	:	
Priority Date: 13 May 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: 58049-00009	:	
For: Peptides and Derivatives Thereof Showing Cell Attachment, Spreading and Detachment Activity	:	

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 14 November 2002.

BACKGROUND

On 06 December 2000, this international application was filed, claiming an earliest priority date of 13 May 2000.

A Demand electing the United States was filed in this international application on 06 December 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 13 November 2002.

On 14 November 2002, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 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 this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any

terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

DECISION

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

The required fee of $65.00 (the surcharge under 1.492(e) for late filing of the declaration) has been charged to Deposit Account No.: 50-2486 as authorized in the fax submitted on 09 May 2003.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **14 November 2001.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

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#6

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19 AUG 2003

Shalom Wertsberger
Saltamar Innovations
30 Fern Lane
South Portland, Maine 04106

In re Application of	:	
SMITH, Neale Bremner	:	
Application No.: 10/276,636	:	DECISION ON REQUEST
PCT No.: PCT/GB01/02170	:	
Int. Filing Date: 18 May 2001	:	
Priority Date: 19 May 2000	:	
Attorney Docket No.: 0250US-Smith	:	
For: PROCESSOR FOR LOAD BALANCING	:	

This is a decision on applicant's "Response to Notification of Missing Parts, and Petition to Accord Filing Date" filed on 14 July 2003, which is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 18 November 2002, applicant filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee; a preliminary amendment; and an international search report. No declaration was filed.

On 07 July 2003, the United Stated Designated/Elected Office 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) must be filed. The notification set a two-month time limit in which to respond.

On 14 July 2003, applicant filed "Response to Notification of Missing Parts, and Petition to Accord Filing Date" which included a declaration.

DISCUSSION

Applicant states, "[a]s the processing of the application by the Office took an extraordinary amount of time, (about 8 months) applicant respectfully petitions that the application be accorded a filing date comensurating with normal processing times of similar PCT applications filed with missing parts on December 2002." The actual filing date of the present application is considered to be the international filing date, 18 May 2001. The date that will be listed in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1893.03) A review of the application file reveals that the declaration was filed with the USPTO on 14 July 2003, the date which

requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. Therefore, the "FILING DATE" on the Filing Receipt and the Notification of Acceptance will indicate a date of 14 July 2003 since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 14 July 2003.

Additionally, the Filing Receipt will indicate that "this application is a 371 of PCT/GB01/02170" and claims priority to British patent application no. 0011974.3 filed 19 May 2000.

CONCLUSION

Applicant's Petition under 37 CFR 1.181 to accord an earlier filing date is **DISMISSED** without prejudice.

The application has an international filing date of 18 May 2001 under 35 U.S.C. 363 and a date of 14 July 2003 under 35 U.S.C. 371(c).

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

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

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

COPY MAILED

SEP 19 2007

OFFICE OF PETITIONS

In re Application of :
Ulloa et al. :
Application No. 10/276,637 : ON PETITION
Filed: November 18, 2002 :
Attorney Docket No. PD01173K :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 30, 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 Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on August 30, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as previously authorized.

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 10, 2008

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/276641 Patent No.: 7049337 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: Applicants have not correctly identified the correct sections of the patent to be corrected. For example, the proposed amendment to claim 2 is for column 17, line 65 to column 18, line 15. The amendment to claim 3 should be for column 18, lines 27 to 55 of the patent etc.

JOSEPH K. MCKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626
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

Date Mailed : 07/31/08

Patent No. : 7049337 B2
Patent Issued : 05/23/06
Docket No. : **WSUO187PUSA**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 06/16/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

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

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 10, 2008

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/276641 Patent No.: 7049337 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**.

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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: Applicants have not correctly identified the sections of the patent to be corrected. For example, the proposed amendment to claim 2 is for column 17, line 65 to column 18, line 15. The amendment to claim 3 should be for column 18, lines 27 to 55 of the patent etc.

JOSEPH K. MCKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
SPE

1626
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/12/09

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10276641 Patent No.: 7049337 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: Applicants have not correctly identified the sections of the patent to be corrected and the material that is being deleted. For claim 2, the section of the patent to be corrected should be column 17, line 67 to column 18, line 15 and the fourth structure listed to be deleted should be $-O-\overset{O}{\overset{\|}{C}}-R''$. For claim 3, the section of the patent should be columns 18, lines 27 to 62 and the sixth structure shown to be deleted is incorrect.

Joseph K. McKane (SPE) A.U. 1626

Joseph K. McKane

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Date Mailed : 05/15/09

Patent No. : 7049337 B2
Patent Issued : 05/23/06
Docket No. : **WSUO187PUSA**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 02/20/09; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/12/09

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10276641 Patent No.: 7049337 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:

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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: Applicants have not correctly identified the sections of the patent to be corrected and the material that is being deleted. For claim 2, the section of the patent to be corrected should be column 17, line 67 to column 18, line 15 and the fourth structure listed to be deleted should be -O-C(=O)-R". For claim 3, the section of the patent should be columns 18, lines 27 to 62 and the sixth structure shown to be deleted is incorrect.

Joseph K. McKane (SPE) A.U. 1626

Joseph K. McKane

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BRIDGEWATER NJ 08807

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APR 16 2007

OFFICE OF PETITIONS

In re Application :
Galli, et al. :
Application No. 10/276,646 : DECISION ON APPLICATION
Filed: February 24, 2003 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. SANSYL047 US PCT :

This is a decision on the "Request for Reconsideration of the Patent Term Adjustment Under § 37 C.F.R. 1.705(b)", filed November 16, 2006. Applicants assert that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of two hundred sixty-two (262) days should be corrected to one hundred twenty-five (125) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one hundred twenty-five (125) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 11, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred sixty-two (262) days.

The Office initially determined a patent term adjustment of two hundred sixty-two (262) days based on an adjustment for PTO delay of twenty-five (25) days pursuant to 35 U.S.C. 154(b)(1)(a)(ii) and 37 C.F.R. § 1.703(b)(2)(i), and four hundred fifteen (415) days pursuant to 35 U.S.C. 154(b)(1)(a)(ii) and 37 C.F.R. 1.703(a)(5), reduced by ninety-five (95), twenty-nine (29), and fifty-four (54) days of applicant delay pursuant to 37 C.F.R. 1.704(b).

As pointed out by applicants, the Office should have been assessed additional delay pursuant to 37 C.F.R. § 1.703(b)(2)(i). The Office mailed a Declaration of Interference on October 19, 2005. Subsequently, the Office mailed a decision on August 17, 2006. Accordingly, pursuant to 1.703(b)(2)(i), three hundred three (303) days of PTO delay should have been assessed.

Moreover, the Office should not have been assessed four hundred fifteen (415) days for mailing the Notice of Allowance after the decision. The BPAI mailed the decision on August 17, 2006. The Office then mailed a Notice of Allowance on September 11, 2006. As this was timely pursuant to 37 C.F.R. 1.703(a)(5), zero (0) days of PTO delay should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred twenty-five (125) days** (303 days of PTO delay, reduced by 178 (54+29+95) days of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

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

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

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

Enc: updated PAIR screen

PTA Calculations for Application: 10/276646			
Application Filing Date:	02/24/2003	PTO Delay (PTO):	440
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	178
Post-Issue Petitions:	0	Total PTA (days):	125
PTO Delay Adjustment:	-137		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	04/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		25	
58	04/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		415	
57	04/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	303		
50	09/11/2006	MAIL NOTICE OF ALLOWANCE	415		31
49	09/07/2006	ISSUE REVISION COMPLETED			
48	09/07/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
47	09/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
46	09/07/2006	NOTICE OF ALLOWABILITY			
45	08/17/2006	MAIL INTERFERENCE DECISION - FAVORABLE			
44	08/17/2006	INTERFERENCE DECISION ON PRIORITY - FAVORABLE	25		43
43	10/19/2005	DECLARATION OF INTERFERENCE			
42	05/13/2005	INTERFERENCE COMMUNICATION: INITIAL MEMO DISPOSAL			
41	05/17/2005	MAIL LETTER OF SUSPENSION			
36	05/13/2005	LETTER OF SUSPENSION - EXAMINER INITIATED			
35	04/14/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
34	04/14/2005	CORRESPONDENCE ADDRESS CHANGE			
33	03/23/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
32	04/08/2005	DATE FORWARDED TO EXAMINER			
31	03/23/2005	RESPONSE AFTER NON-FINAL ACTION		54	29
30	03/23/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	10/28/2004	MAIL NON-FINAL REJECTION			

28	10/26/2004	NON-FINAL REJECTION			
27	10/22/2004	DATE FORWARDED TO EXAMINER			
26	10/12/2004	AMENDMENT AFTER FINAL REJECTION			
25	10/12/2004	WORKFLOW INCOMING AMENDMENT IFW			
24	09/02/2004	MAIL FINAL REJECTION (PTOL - 326)			
23	09/01/2004	FINAL REJECTION			
22	08/10/2004	DATE FORWARDED TO EXAMINER			
21	07/30/2004	RESPONSE AFTER NON-FINAL ACTION		29	18
20	07/30/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	07/30/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	04/01/2004	MAIL NON-FINAL REJECTION			
17	03/31/2004	NON-FINAL REJECTION			
16	02/19/2004	IFW AMENDED CASE PROCESSING COMPLETE			
15	02/19/2004	DATE FORWARDED TO EXAMINER			
14	01/26/2004	RESPONSE AFTER NON-FINAL ACTION		95	12
13	01/26/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
12	07/23/2003	MAIL NON-FINAL REJECTION			
11	07/22/2003	NON-FINAL REJECTION			
10	07/10/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	02/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	02/24/2003	PRELIMINARY AMENDMENT			
7	05/15/2003	APPLICATION DISPATCHED FROM OIPE			
6	05/07/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
5	04/30/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	02/24/2003	ADDITIONAL APPLICATION FILING FEES			
3	02/24/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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10 AUG 2007

SCIENTIFIC-ATLANTA, INC.
Intellectual Property Department
5030 Sugarloaf Parkway
Lawrenceville, GA 30044

In re Application of: MCKINNON, et al.
U.S. Application No.: 10/276,654
PCT No.: PCT/US01/07209
International Filing Date: 27 March 2001
Priority Date: 19 March 2000
Atty Docket No.: 8145-396678
For: ALLOCATING ACCESS ACROSS SHARED COMMUNICATION MEDIUM

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to the "Renewed Petition Pursuant To 37 CFR 1.47(a)" filed 11 August 2006. No additional petition fee is required.

BACKGROUND

The procedural background for this application has been set out in previous decisions mailed by this Office on 17 September 2003, 22 March 2004, 21 April 2005, and 21 June 2006.

The most recent decision, mailed 21 June 2006, granted applicants' petition to withdraw a previous holding of abandonment, and it dismissed applicants' petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) was dismissed for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide an acceptable oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor and adequate proof that the non-signing inventor refuses to execute the application or cannot be reached after diligent effort.

On 11 August 2006, applicants filed the renewed petition under 37 CFR 1.47(a) considered herein.

DISCUSSION

The renewed petition is accompanied by copies of the complete three-page declarations executed by each of the five signing inventors. Each of these declarations lists all the other inventors and includes an unsigned signature block for the non-signing inventor, Ole M. KOLESNIKOV. These declarations are accepted as having been executed by the signing inventors on their own behalf and on behalf of the non-signing inventor. Applicants have therefore satisfied the declaration requirement for a grantable petition.

The renewed petition also includes statements, with documentary support, setting forth the additional efforts to obtain the signature of the non-signing inventor made by applicants in response to the previous decision. These efforts included forwarding a request for signature, accompanied by the declaration and a copy of the complete application papers, to the non-signing inventor via email (to the last email address from which the inventor had communicated) and via Federal Express (at the two last known addresses of the non-signing inventor).

The materials accompanying the renewed petition, in combination with the previously filed materials, are accepted as an adequate showing that the non-signing inventor cannot be located after diligent effort and/or has refused to sign the declaration.

Applicants have therefore satisfied the final requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

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

The application is accepted without the signature of non-signing inventor Oleg M. KOLESNIKOV.

A notice of the acceptance of the application under 37 CFR 1.47 will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The request to delete two of the inventors pursuant to 37 CFR 1.48(b) (contained in the preliminary amendment filed 19 November 2002) will be properly addressed by the primary examiner in due course. Accordingly, no decision with respect to such request is made in the present decision.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 11 August 2006.

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

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

17 SEP 2003

Chad D. Tillman
Morris Manning & Martin, LLP
6000 Fairview Road
Suite 1125
Charlotte, NC 28210

In re Application of	:	
McKinnon, Subramanian, Sotack, and Ehrley	:	
Application No. 10/276,654	:	
PCT No.: PCT/US01/07209	:	DECISION ON PETITION
International Filing Date: 27 March 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 19 May 2000	:	
Attorney Docket No.: 8145-396678	:	
For: ALLOCATING ACCESS ACROSS SHARED	:	
COMMUNICATION MEDIUM	:	

This is a decision on the applicant's petition under 37 CFR 1.47(a) filed 18 August 2003, to accept the application without the signature of joint inventor John Ehrley.

BACKGROUND

On 27 March 2001, applicant filed international application PCT/US01/07209 which claimed a priority date of 19 May 2000. A demand for international preliminary examination, in which the United States was elected, was filed within nineteen months of the international filing date . The thirty-month period for paying the basic national fee in the United States was midnight, 20 November 2002.

On 19 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 USC 371(c)(1).

On 15 May 2003, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration. The notification set a two-month time limit in which to respond.

On 18 August 2003 (certificate of mailing dated 15 August 2003), applicant filed the instant petition under 37 CFR 1.47(a) along with a request for an extension of time within the first month. The petition was accompanied by an oath or declaration signed by all the named inventors, except inventor

Ehrley, a statement authored by Brian MacDonald, and other documentary evidence.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration signed by each 37 CFR 1.47(a) applicant on his behalf and on behalf of the non-signing inventor.

As to Item (1), the petition fee of $130.00 was received on 18 August 2003.

As to Item (3), a the petition states the last known address of the non-signing inventor.

As to Item (4) applicant has provided an oath or declaration that is signed by each named inventor on his behalf and on behalf of the non-signing inventor.

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

As to Item (2), the *Manual of Patent Examining Procedure* (MPEP), Section 409.03(d) states, in pertinent part, that "[w]here inability to find or reach a nonsigning inventor "after diligent" effort is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that diligent effort was made." The statement offered by Mr. MacDonald describes the extent of the efforts to locate the nonsigning inventor as sending the application papers to the last known address for the non-signing inventor and searching the 411 telephone directory in Atlanta, Georgia. It is noted that the package containing the application papers that were sent to the last known address of the nonsigning inventor were returned as undeliverable and that the inquiry to the 411 telephone listing in Atlanta, Georgia yielded no results. The diligence requirement implied in 37 CFR 1.47 cannot be said to be satisfied when the last known address is proven to be an incorrect address and the search for the non-signing inventor extends only to one city. Applicant gave no indication that any search for the nonsigning inventor was conducted outside of Atlanta, Georgia via Internet search or nationwide telephone directory search. Applicant has not stated that he contacted Mr. Ehrley's employer and co-inventors to see if they know his address. The nonsigning inventor will not be deemed unavailable without a showing of diligence on the part of the applicant in locating the nonsigning inventor.

For the reasons stated above, it would not be appropriate to accept the application without

the signature of John Ehrley under 37 CFR 1.47(a) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice**.

Applicant's are hereby afforded TWO (2) MONTHS from the mailed date of this decision to file wither 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by all inventors or (2) a renewed petition satisfying the requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter titled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia, 22313-1450.

Leonard Smith
PCT Legal Examiner
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In re Application of	:	
McKinnon, Subramanian, Sotack, and Ehrley	:	
Application No. 10/276,654	:	
PCT No.: PCT/US01/07209	:	DECISION ON PETITION
International Filing Date: 27 March 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 19 May 2000	:	
Attorney Docket No.: 8145-396678	:	
For: ALLOCATING ACCESS ACROSS SHARED	:	
COMMUNICATION MEDIUM	:	

This is a decision on the applicant's petition under 37 CFR 1.47(a) filed 18 August 2003, to accept the application without the signature of joint inventor John Ehrley.

BACKGROUND

On 27 March 2001, applicant filed international application PCT/US01/07209 which claimed a priority date of 19 May 2000. A demand for international preliminary examination, in which the United States was elected, was filed within nineteen months of the international filing date . The thirty-month period for paying the basic national fee in the United States was midnight, 20 November 2002.

On 19 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 USC 371(c)(1).

On 15 May 2003, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration. The notification set a two-month time limit in which to respond.

On 18 August 2003 (certificate of mailing dated 15 August 2003), applicant filed the instant petition under 37 CFR 1.47(a) along with a request for an extension of time within the first month. The petition was accompanied by an oath or declaration signed by all the named inventors, except inventor

Ehrley, a statement authored by Brian MacDonald, and other documentary evidence.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration signed by each 37 CFR 1.47(a) applicant on his behalf and on behalf of the non-signing inventor.

As to Item (1), the petition fee of $130.00 was received on 18 August 2003.

As to Item (3), a the petition states the last known address of the non-signing inventor.

As to Item (4) applicant has provided an oath or declaration that is signed by each named inventor on his behalf and on behalf of the non-signing inventor.

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

As to Item (2), the *Manual of Patent Examining Procedure* (MPEP), Section 409.03(d) states, in pertinent part, that "[w]here inability to find or reach a nonsigning inventor "after diligent" effort is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that diligent effort was made." The statement offered by Mr. MacDonald describes the extent of the efforts to locate the nonsigning inventor as sending the application papers to the last known address for the non-signing inventor and searching the 411 telephone directory in Atlanta, Georgia. It is noted that the package containing the application papers that were sent to the last known address of the nonsigning inventor were returned as undeliverable and that the inquiry to the 411 telephone listing in Atlanta, Georgia yielded no results. The diligence requirement implied in 37 CFR 1.47 cannot be said to be satisfied when the last known address is proven to be an incorrect address and the search for the non-signing inventor extends only to one city. Applicant gave no indication that any search for the nonsigning inventor was conducted outside of Atlanta, Georgia via Internet search or nationwide telephone directory search. Applicant has not stated that he contacted Mr. Ehrley's employer and co-inventors to see if they know his address. The nonsigning inventor will not be deemed unavailable without a showing of diligence on the part of the applicant in locating the nonsigning inventor.

For the reasons stated above, it would not be appropriate to accept the application without

the signature of John Ehrley under 37 CFR 1.47(a) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice.**

Applicant's are hereby afforded TWO (2) MONTHS from the mailed date of this decision to file wither 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by all inventors or (2) a renewed petition satisfying the requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter titled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia, 22313-1450.

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22 MAR 2004

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Charlotte, North Carolina 28210

In re Application of	:	
MCKINNON, et al.	:	
U.S. Application No.: 10/276,654	:	DECISION ON RESPONSE
PCT No.: PCT/US01/07209	:	
International Filing Date: 27 March 2001	:	
Priority Date: 19 March 2000	:	
Attorney's Docket No.: 8145-396678	:	
For: ALLOCATING ACCESS ACROSS SHARED COMMUNICATION MEDIUM	:	

This decision is issued in response to the "Response To Decision On Petition Under 37 CFR 1.47(a)" filed by applicants on 12 November 2003. No petition fee is required.

BACKGROUND

The procedural background for this petition is set forth in detail in the decision mailed by this Office on 17 September 2003. In that decision, applicants' petition under 37 CFR 1.47(a) for acceptance of a declaration without the signature of co-inventor John J. EHRLEY was dismissed without prejudice.

On 12 November 2003, applicant filed the "Response To Decision On Petition" considered herein. The Response included a declaration executed by the previously non-signing inventor John J. EHRLEY.

DISCUSSION

As noted above, the Response was accompanied by a copy of the declaration of inventors executed by John J. EHRLEY, the non-signing inventor who was the subject of the earlier petition under 37 CFR 1.47. Because Mr. EHRLEY is no longer refusing to execute the application materials here, applicants' petition under 37 CFR 1.47 is now moot.

However, the declaration executed by John J. EHRLEY (as well as the previously filed declarations of Martin W. MCKINNON, III, Mani M. SUBRAMANIAN, and Timothy Sean SOTACK) identify only four applicants for the present application. The published international application identifies two additional applicants for the United States, James E. HARRELL, Jr., and Oleg M. KOLESNIKOV. Applicants have not provided any indication that these additional applicants were removed from the application during the international phase, and no evidence of

such removal is present in the international application file. Accordingly, the declarations filed herein are defective for failure to properly identify all the applicants, and for failure to be executed by all the applicants herein.

CONCLUSION

Applicants' petition under 37 CFR 1.47 is **MOOT**.

The declarations filed by applicants herein are defective for failure to identify and be executed by all six of the applicants herein (specifically, applicants James E. HARRELL, Jr., and Oleg M. KOLESNIKOV have been omitted).

Applicants have **TWO (2) MONTHS** from the mail date of the present decision to file a fully executed declaration in compliance with 37 CFR 1.497 which identifies all the applicants herein. If the two omitted applicants were in fact removed from the application during the international phase, evidence of such removal (i.e., forms issued by the International Bureau confirming such changes) must be provided by applicants.

Failure to file a timely and proper response will result in abandonment.

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

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21 APR 2005

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In re Application of	:	
MCKINNON, et al.	:	
U.S. Application No.: 10/276,654	:	DECISION
PCT No.: PCT/US01/07209	:	
International Filing Date: 27 March 2001	:	
Priority Date: 19 March 2000	:	
Attorney's Docket No.: 8145-396678	:	
For: ALLOCATING ACCESS ACROSS SHARED COMMUNICATION MEDIUM	:	

In a decision mailed on 22 March 2004, this Office informed applicants that the petition under 37 CFR 1.47(a) filed herein was moot based on the fact that the inventor who was the subject of the petition (John J. ERHLEY) had now signed a declaration. However, the decision went on to state that the declarations filed by applicants were defective in that they only identified four of the six applicants-of-record herein.[1]

37 CFR 1.497(a)(3) requires that the declaration "identify each inventor and the residence and country of citizenship of each inventor." Section 201.03 of the Manual of Patent Examining Procedure states, in part,

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity . . . For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor . . .

The 22 March 2004 decision required applicants to submit a fully executed declaration which included all the information required under 37 CFR 1.497, including the names of all the applicants.

---

[1] The declaration identified, and was executed by, John J. EHRLEY, Martin W. MCKINNON, III, Mani M. SUBRAMANIAN, and Timothy Sean SOTACK; the published international application identifies two additional applicants, James E. HARRELL, Jr., and Oleg M. KOLESNIKOV.

On 25 June 2004, applicants filed a response to the decision (with required extension fee). The response included a declaration that identified and was signed by the two inventors who were left off the earlier declaration, that is, James E. HARRELL, Jr., and Oleg M. KOLESNIKOV. However, this declaration is defective for the same reason as the previous filed declaration, that is, it fails to identify all six of the applicants herein. Moreover, the response did not include a revised declarations executed by the other four applicants which identified all the applicants, as required by the 22 March 2004 decision.[2]

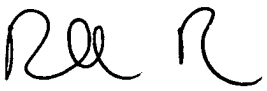
Based on the above, applicants 25 June 2004 submission is **REFUSED** as an unacceptable response to the previous decision.

Applicants have **ONE (1) MONTH** from the mail date of the present decision to file a fully executed declaration in compliance with 37 CFR 1.497 which identifies and is executed by all the applicants herein, as specifically required in the previous decision.

Failure to file a timely and proper response will result in abandonment.

Extensions of time under 37 CFR 1.136(a) are **NOT** 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



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[2] The declaration filed 25 June 2004 is also defective in form in that the submitted materials appear to be an unacceptable compilation of two documents; the first page is identified as "Page 1 of 2," but two copies of the identical second page (one executed by each of the named inventors) are attached to the first page, resulting in a three page document.

21 JUN 2006

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Intellectual Property Department
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Lawrenceville, GA 30044

In re Application of: MCKINNON, et al.
U.S. Application No.: 10/276,654
PCT No.: PCT/US01/07209
International Filing Date: 27 March 2001
Priority Date: 19 March 2000
Atty Docket No.: 8145-396678
For: ALLOCATING ACCESS ACROSS SHARED COMMUNICATION MEDIUM

DECISION ON PETITIONS

This decision is issued in response to the "Petition For Revival Of Application For Application Abandoned Unavoidably Pursuant To 37 CFR 1.137(a) filed 14 March 2006, treated herein as a petition under 37 CFR 1.181 for withdrawal of the holding of abandonment, and the "Petition Pursuant To 37 CFR 1.47(a)" filed 14 March 2006. Applicant submitted $500 as the petition fee for the petition for revival. Because this petition is being treated under 37 CFR 1.181, such fee is not required. However, $200 is required as the petition fee for the petition under 37 CFR 1.47(a). Deposit Account No. 19-0761 will be credited with a refund of the excess petition fee paid, that is, $300.

BACKGROUND

The procedural background for this application has been set out in the previous decisions mailed by this Office on 17 September 2003, 22 March 2004, and 21 April 2005.

On 10 November 2005, the DO/EO/US mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909).

On 14 March 2006, applicants filed the petitions considered herein seeking to withdraw the holding of abandonment and requesting that the application be accepted without the signature of all the inventors, pursuant to 37 CFR 1.47(a).

DISCUSSION

1. Petition To Withdraw Abandonment:

The present application was abandoned due to applicants' failure to file a timely response to the decision mailed herein on 21 April 2005. The 21 April 2005 decision was mailed to the law firm of MORRIS, MANNING & MARTIN, in Charlotte, North Carolina (the "Morris

address"). However, as pointed out by applicants in the present submission, the application file confirms that on 14 April 2005 (prior to the mailing of the 21 April 2003 decision) a "Change of Correspondence Address" was filed herein changing the correspondence address from the Morris address used for the 21 April 2003 decision to the new address set forth above.

Because the 21 April 2003 decision was not mailed to the correct address, applicants' failure to file a timely response to such decision is not a proper basis for abandonment. Accordingly, the Notification Of Abandonment mailed 10 November 2005, based as it was on applicants' failure to respond to the improperly addressed decision, is appropriately vacated.

Based on the above, the present application is not abandoned. Applicant's petition to revive the application under 37 CFR 1.137(a) is therefore moot.

2. Petition Under 37 CFR 1.47(a):

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 nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Here, applicants have submitted the required petition fee, and the petition expressly states the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (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 joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Applicants here have filed a declaration document that is executed by five of the six inventors and contains an unsigned signature block for the nonsigning inventor, Oleg M. KOLESNIKOV. However, the declaration, which includes three separate copies of supplemental page "1 of 2" appears to be a compilation of a number of separately executed declarations, and as such is not acceptable under 37 CFR 1.497 (See MPEP § 201.03(II)(B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.") Applicants must provide the complete declaration documents executed by each of the five inventors before item (3) can be considered satisfied.

Regarding item (4), the petition states that the nonsigning inventor has refused to execute the application. Pursuant to MPEP section 409.03(d), before it can be concluded that an inventor has refused to join in the application, "[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." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants have provided statements, with supporting documentary evidence, regarding email correspondence with the non-signing inventor. However, these materials do not state that a copy of the complete application has been forwarded to the nonsigning inventor at his last known address, as required (the evidence provided shows only that a copy of the declaration was sent to the inventor by email). Before item (4) can be considered satisfied, applicants must provide an adequate showing that a request for the inventor's signature, accompanied by a copy of the complete application papers (i.e., description, claims, and drawings) has been forwarded to the nonsigning inventor at his last known address and that the inventor has refused to execute the required declaration.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 10 November 2005 is hereby **VACATED**.

Based on the withdrawal of the abandonment, applicants' petition for revival under 37 CFR 1.137(a) is **MOOT**.

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy items (3) and (4) of a grantable petition, as discussed above. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, 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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10 AUG 2007

SCIENTIFIC-ATLANTA, INC.
Intellectual Property Department
5030 Sugarloaf Parkway
Lawrenceville, GA 30044

In re Application of: MCKINNON, et al.
U.S. Application No.: 10/276,654
PCT No.: PCT/US01/07209
International Filing Date: 27 March 2001
Priority Date: 19 March 2000
Atty Docket No.: 8145-396678
For: ALLOCATING ACCESS ACROSS SHARED COMMUNICATION MEDIUM

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to the "Renewed Petition Pursuant To 37 CFR 1.47(a)" filed 11 August 2006. No additional petition fee is required.

BACKGROUND

The procedural background for this application has been set out in previous decisions mailed by this Office on 17 September 2003, 22 March 2004, 21 April 2005, and 21 June 2006.

The most recent decision, mailed 21 June 2006, granted applicants' petition to withdraw a previous holding of abandonment, and it dismissed applicants' petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) was dismissed for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide an acceptable oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor and adequate proof that the non-signing inventor refuses to execute the application or cannot be reached after diligent effort.

On 11 August 2006, applicants filed the renewed petition under 37 CFR 1.47(a) considered herein.

DISCUSSION

The renewed petition is accompanied by copies of the complete three-page declarations executed by each of the five signing inventors. Each of these declarations lists all the other inventors and includes an unsigned signature block for the non-signing inventor, Ole M. KOLESNIKOV. These declarations are accepted as having been executed by the signing inventors on their own behalf and on behalf of the non-signing inventor. Applicants have therefore satisfied the declaration requirement for a grantable petition.

The renewed petition also includes statements, with documentary support, setting forth the additional efforts to obtain the signature of the non-signing inventor made by applicants in response to the previous decision. These efforts included forwarding a request for signature, accompanied by the declaration and a copy of the complete application papers, to the non-signing inventor via email (to the last email address from which the inventor had communicated) and via Federal Express (at the two last known addresses of the non-signing inventor).

The materials accompanying the renewed petition, in combination with the previously filed materials, are accepted as an adequate showing that the non-signing inventor cannot be located after diligent effort and/or has refused to sign the declaration.

Applicants have therefore satisfied the final requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

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

The application is accepted without the signature of non-signing inventor Oleg M. KOLESNIKOV.

A notice of the acceptance of the application under 37 CFR 1.47 will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The request to delete two of the inventors pursuant to 37 CFR 1.48(b) (contained in the preliminary amendment filed 19 November 2002) will be properly addressed by the primary examiner in due course. Accordingly, no decision with respect to such request is made in the present decision.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 11 August 2006.

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10 AUG 2007

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14/1 Pershotravneva Str.
Kyiv, UKRAINE

In re Application of: MCKINNON, et al.
U.S. Application No.: 10/276,654
PCT No.: PCT/US01/07209
International Filing Date: 27 March 2001
Priority Date: 19 March 2000
Atty Docket No.: 8145-396678
For: ALLOCATING ACCESS ACROSS SHARED COMMUNICATION MEDIUM

Dear Mr. KOLESNIKOV:

You are identified 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 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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APR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Kenji Kuwabara, et al. :
Application No. 10/276,670 : ON PETITION
Filed: November 18, 2002 :
Attorney Docket No. 44342.018000 :

This is a decision on the petition, filed April 23, 2004, under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 2004, using a Certificate of Mailing under 37 CFR 1.8 dated February 19, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center AU 1626 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

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AUG 2 5 2004

OFFICE OF PETITIONS

GREENBERG TRAURIG, LLP
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NEW YORK, NY 10022

In re Application of
K. Kuwabara, et al.
Application No. 10/276,670
Filed: November 18, 2002
Attorney Docket No. 44342.018000

ON PETITION

This is a decision in response to a petition under 37 CFR 1.313(b)(5) filed August 19, 2004, which is being construed as a petition under 37 CFR 1.313(c)(2).

Petitioners request that the application be withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed on even date. See 37 CFR 1.313(c)(2).

The petition is DISMISSED AS MOOT.

Since the RCE was filed within the period set for paying the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed July 13, 2004, a petition under 37 CFR 1.313 is not necessary. Accordingly, the application is being referred to Technology Center AU 1626 for appropriate action on the IDS and the RCE filed August 19, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-9220.

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

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Paper No. 5

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WASHINGTON, DC 20036

MAIL

MAY 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Mitsuru Uesugi, et al. :
Application No. 10/276,728 :
Filed: November 18, 2002 :
For: PACKET TRANSMISSION SYSTEM AND :
PACKET TRANSMISSION METHOD :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 12, 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.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications

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

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OCT 19 2007

OFFICE OF PETITIONS

In re Application of :
Hans Mueller :
Application No. 10/276,730 : DECISION ON PETITION
Filed: April 15, 2003 : TO WITHDRAW
Attorney Docket No. 449122047500 : 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 18, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 1, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

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SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE, RI 02903-7128

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
Martin Walter et al :
Application No. 10/276,751 : ON PETITION
Filed: September 2, 2003 :
Attorney Docket No. 02408 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 18, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 19, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted with the petition on August 8, 2008 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1652 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc:

Cantor Colburn, LLP
55 Griffin Road South
Bloomfield, CT 06002

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BOZICEVIC FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

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NOV 0 9 2007

OFFICE OF PETITIONS

In re Patent No. 7,247,619 :
Issue Date: July 24, 2007 :
Application No. 10/276,752 : ON PETITION
Filed: September 2, 2003 :
Attorney Docket No. STAN-194 :

This is a decision on the petition filed July 20, 2007, 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 application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

2003 JAN 9 1

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16 JAN 2003

Li-Hsien Rin-Laures
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085

In re Application of:	:	
TANG, Y., Tom	:	DECISION ON PETITION TO
U.S. Application No.: 10/276,774	:	REVIVE ABANDONED
PCT No.: PCT/US01/03800	:	APPLICATION UNDER 37
International Filing Date: 05 February 2001	:	CFR 1.137(b)
Priority Date: 03 February 2000	:	
Attorney's Docket No.: 787CIP3/US	:	
For: NOVEL NUCLEIC ACIDS AND POLYPEPTIDES	:	

The petition to revive under 37 CFR 1.137(b) filed 18 November 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements requiring submission of a declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

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

Draft Petition Decision

Serial No. 10/276,774

Date of Draft 1/15/02

Legal Examiner Ross

Conferee Approval _____

Petitions Book Nos. _____

Petition Log Book No. _____

PALM Petition Code 272

___Charge Account No. _____

Fee _____ Code _____
Fee _____ Code _____
Fee _____ Code _____
Fee _____ Code _____

Granted _____
Dismissed _____
Dismissed with Recomendation _____

14 AUG 2003

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#7

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CLARK & ELBING LLP
101 Federal Street
Boston, MA 02110

In re Application of
BUNK, Daniela *et al*
Application No.: 10/276,775
PCT No.: PCT/EP01/06165
Int. Filing Date: 30 May 2001
Priority Date: 30 May 2000
Attorney Docket No.: 50290/004002
For: NOVEL TARGET GENES FOR DISEASES OF THE HEART

DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on the request under 37 C.F.R. 1.497(d) filed 14 July 2003.

BACKGROUND

On 25 February 2003, applicants filed a declaration listing five co-inventors in the above-captioned application. However, the international publication listed only four co-inventors for PCT/EP01/06165.

On 10 April 2002, 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, *inter alia*, that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. The current declaration did not comply with 37 CFR 1.497(a) and (b) because the fifth co-inventor, Oliver Stoss, was not listed on the international publication. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 14 July 2003, applicants filed the instant request which was accompanied by, *inter alia*, the $130.00 surcharge fee; a one-month extension and $110.00 fee; a document titled "Request to Correct Inventorship Under 37 C.F.R. § 1.497(d) Declaration of Added Inventor"; a document titled "Request to Correct Inventorship Under 37 C.F.R. § 1.497(d) Consent of Assignee"; and authorization to charge any additional fees to Deposit Account No. 03-2095.

08/15/2003 MKAYPAGH 00000122 032095 10276775

01 FC:1808 130.00 DA

DISCUSSION

Applicants request to add Oliver Stoss as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(l); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement titled "Request to Correct Inventorship Under 37 C.F.R. § 1.497(d) Declaration of Added Inventor" signed by Oliver Stoss who requests to be added as an inventor in the above-captioned application. The statement declares that the omission occurred "[t]hrough error and without any deceptive intent on my part." This satisfies item (1) above. The processing fee of $130.00 has been charged to Deposit Account No. 03-2095 as authorized. This satisfies item (2) above. Applicants also submitted a document titled "Request to Correct Inventorship Under 37 C.F.R. § 1.497(d) Consent of Assignee" signed by Peter Heinrich as CEO of Medigene AG consenting to the correction of inventorship in the above-identified application. The position of CEO is a position recognized as having the authority to sign for a corporation. *See* § 324 MPEP. Item (3) is satisfied.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add Oliver Stoss as an inventor in the above-captioned application is **GRANTED**.

The declaration filed 25 February 2003 is now in compliance with 37 CFR 1.497(d). This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

13 MAY 2003

#4

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John C. Altmiller
Kenyon & Kenyon
1500 K Street, N.W., Suite 700
Washington, DC 20005

In re Application of SUZUKI et al	:	
U.S. Application No.: 10/276,798	:	
Int. Application No.: PCT/JP01/04157	:	COMMUNICATION
Int. Filing Date: 18 May 2001	:	
Priority Date: 19 May 2000	:	
Attorney Docket No.: 12218/7	:	
For: POLYESTER RESIN COMPOSITION AND PROCESS FOR THE PREPARATION THEREOF	:	

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

On 06 March 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 May 2003, applicant filed a copy of an executed declaration purportedly filed on 10 January 2003 along with a copy of a return postcard receipt.

A review of the copy of the return postcard receipt reveals that no USPTO date stamp is present. Thus, the declaration is currently not entitled to a receipt date of 10 January 2003.

Applicant is given a time limit of TWO (2) MONTHS from the mail date of this communication to supply a properly stamped return postcard receipt. Extensions of time are NOT available under 37 CFR 1.136(a). If applicant fails to properly respond within this time limit, the declaration will be accorded a receipt date of 06 May 2003.

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.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

24 JUN 2003

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John C. Altmiller
Kenyon & Kenyon
1500 K Street, N.W., Suite 700
Washington, DC 20005

In re Application of SUZUKI et al :
U.S. Application No.: 10/276,798 :
Int. Application No.: PCT/JP01/04157 : DECISION
Int. Filing Date: 18 May 2001 :
Priority Date: 19 May 2000 :
Attorney Docket No.: 12218/7 :
For: POLYESTER RESIN COMPOSITION AND PROCESS FOR THE PREPARATION THEREOF :

This is in response to applicant's "Response to Communication" filed 18 June 2003, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 06 March 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 May 2003, applicant filed a copy of an executed declaration purportedly filed on 10 January 2003 along with a copy of a return postcard receipt.

On 13 May 2003, this Office mailed a decision requiring applicant to supply a stamped return postcard receipt in order to obtain the requested filing date.

On 18 June 2003, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

MPEP 503 states,

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically

identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In the present case, the postcard receipt offered by applicant does not bear a USPTO date stamp. Therefore, the declaration is not entitled to the filing date requested.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

The application has an International Filing Date of 18 May 2001 and a date under 35 U.S.C. 371 of 06 May 2003.

The application is being forwarded to the DO/EO/US for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

03 NOV 2004

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Kenyon & Kenyon
1500 K Street, N.W., Suite 700
Washington, DC 20005

In re Application of SUZUKI et al	:	
U.S. Application No.: 10/276,798	:	
Int. Application No.: PCT/JP01/04157	:	
Int. Filing Date: 18 May 2001	:	DECISION
Priority Date: 19 May 2000	:	
Attorney Docket No.: 12218/7	:	
For: POLYESTER RESIN COMPOSITION AND PROCESS FOR THE PREPARATION THEREOF	:	

This is in response to applicant's "Request for Reconsideration" filed 15 July 2003, which is being treated as a renewed petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 06 March 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 May 2003, applicant filed a copy of an executed declaration purportedly filed on 10 January 2003 along with a copy of a return postcard receipt.

On 13 May 2003, this Office mailed a decision requiring applicant to supply a stamped return postcard receipt in order to obtain the requested filing date.

On 18 June 2003, applicant filed a petition under 37 CFR 1.181.

On 24 June 2003, this Office mailed a decision dismissing the 18 June 2003 petition.

On 15 July 2003, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

MPEP 503 states,

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

MPEP 513 states,

> Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

In the present case, because a properly itemized postcard receipt has not been supplied, applicant bears the burden of providing convincing evidence that the declaration was received by the USPTO on 10 January 2003.

The petition states that it is accompanied by: (1) a copy of a letter which shows that the practitioner had possession of the declaration before 10 January 2003, (2) a copy of an assignment recordation form cover sheet, (3) a copy of a log book entry which shows an entry for a declaration on 10 January 2003, (4) copies of postcards from other matters which were processed on 10 January 2003, (5) a copy of the postcard for the correspondence at issue, (6) a copy of the document history for the present postcard, (7) a copy of the practitioner's deposit account record, (8) copies of log book entries from 11 January 2003 through 13 March 2003, and (9) a copy of a letter sent to applicant.

The petition speculates that the postcard was not stamped by the USPTO because the declaration and postcard might have been clipped to documents for a different application. However, the presented evidence does not discount the possibility that the declaration was never submitted. The fact that the practitioner's deposit account was debited at most proves that the authorization to charge the deposit account (i.e. the paper entitled "Submission of Declaration and Power of Attorney") was received but does not prove that the declaration itself was received. Thus, applicant's allegation that the USPTO either received and then later found the declaration or was late in charging the practitioner's deposit account has not been substantiated. Furthermore, while the practitioner's log book entries and letter to applicant may reflect an honest belief that the declaration was filed, they do not conclusively demonstrate that such filing actually occurred.

Therefore, the declaration is not entitled to a filing date of 10 January 2003. Moreover, because the debiting of the practitioner's deposit account does not prove receipt of the declaration as discussed above, the declaration is not entitled to a filing date of 13 March 2003.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is DISMISSED without prejudice.

The application is being returned to the examining group for continued processing.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

0 3 DEC 2004

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Washington, DC 20005

In re Application of SUZUKI et al :
U.S. Application No.: 10/276,798 :
Int. Application No.: PCT/JP01/04157 :
Int. Filing Date: 18 May 2001 : DECISION
Priority Date: 19 May 2000 :
Attorney Docket No.: 12218/7 :
For: POLYESTER RESIN COMPOSITION AND PROCESS FOR THE PREPARATION THEREOF :

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.181 Regarding Filing Date Under 35 U.S.C. 371" filed 26 November 2004.

BACKGROUND

On 06 March 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 May 2003, applicant filed a copy of an executed declaration purportedly filed on 10 January 2003 along with a copy of a return postcard receipt.

On 13 May 2003, this Office mailed a decision requiring applicant to supply a stamped return postcard receipt in order to obtain the requested filing date.

On 18 June 2003, applicant filed a petition under 37 CFR 1.181.

On 24 June 2003, this Office mailed a decision dismissing the 18 June 2003 petition.

On 15 July 2003, applicant filed a renewed petition under 37 CFR 1.181.

On 03 November 2004, this Office mailed a decision dismissing the 15 July 2003 renewed petition.

On 26 November 2004, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

A review of USPTO records indicates that the declaration filed 10 January 2003 has been associated with the application file.

CONCLUSION

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

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 06 March 2003 is hereby VACATED.

The application has an International Filing Date of 18 May 2001 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 10 January 2003.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) which indicates a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 10 January 2003.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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30 JUL 2003

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Kathleen E. Marmsna
BORDEN LADNER GERVAIS LLP
World Exchange Plaza
100 Queen Street, Suite 1100
Ottawa, ON K1P 1J9 Canada

In re Application of :
JAQUITH, James B. *et al* :
U.S. Application No.: 10/276,803 :
PCT No.: PCT/CA01/00718 :
Int. Filing Date: 18 May 2001 : **DECISION**
Priority Date: 19 May 2000 :
Attorney's Docket No.: PAT 209W-2 :
For: NEUROPROTECTIVE AND ANTI-PROLIFERATIVE COMPOUNDS :

Applicants' "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.137(b)" filed on 28 February 2003 in the above-captioned application is hereby **GRANTED** as follows:

The statement that "[t]he entire delay in paying the total national fee was UNINTENTIONAL" has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). If this is an incorrect interpretation, applicants are requested to notify this office.

The petition fee of $650.00, the basic national fee of $445.00, surcharge fee of $65.00, extra claim fee of $126.00, independent claim fee of $378.00, and assignment fees of $80.00 have been charged to counsel's Deposit Account No. 50-1593 as authorized. No terminal disclaimer is required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was included with the instant petition. However, the declaration is not in compliance with 37 CFR 1.497(a) and (b). Applicants submitted what appears to be one complete declaration and two partial declarations. (Applicants provided a declaration consisting of one Page 1 of 3, two Page 2 of 3, and one Page 3 of 3). Applicants must submit a complete copy of each declaration signed by the applicants.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37

CFR 1.497(a) and (b) is required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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APR 13 2009

OFFICE OF PETITIONS

Striker Striker & Stenby
103 East Neck Road
Huntington NY 11743

In re Application of :
Frank Kowalewski et al. :
Application No. 10/276,834 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. SHC0127 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of December 15, 2008, by the Board of Patent Appeals and Interferences. Therefore, 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 February 16, 2009. *See* MPEP 1214.06.

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 $1,620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/410,870.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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O'Shea, Getz & Kosakowski, P.C.
1500 Main St.
Suite 912
Springfield, MA 01115

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OFFICE OF PETITIONS

In re Application of
Hartmut Beintken
Application No.: 10/276,847
Filed: April 14, 2003
Attorney Docket No.: MIC.6959
For: DIGITAL CLOCK GENERATOR

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed November 16, 2004, which set a shortened statutory period for reply of one (1) month. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on December 16, 2004.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed November 16, 2004; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of November 16, 2004 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 2816.

Telephone inquiries concerning this decision should be directed to the undersigned.

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

25 MAR 2003

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

Bradley A. Swope
McQuaide Blasko, Inc.
811 University Drive
State College, PA 16801-6699

In re Application of	:	
MACNEIL, Joseph Herman	:	
Application No.: 10/276,850	:	DECISION
PCT No.: PCT/US01/10518	:	
Int. Filing Date: 30 March 2001	:	ON PETITION UNDER
Priority Date: 03 April 2000	:	
Docket No.: 99-2160	:	37 CFR 1.137(b)
For: EGGSHELL WASTE PROCESSING METHOD AND DEVICE	:	

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 19 November 2002 is **GRANTED**.

Applicant states "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," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) was submitted with the international application.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 19 November 2002 under 35 U.S.C. §371.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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MAY 2 4 2005

BANNER & WITCOFF
1001 G Street N W
Suite 1100
Washington, DC 20001

In re Application of:	:	
Akihiro Kishimoto, et.al.	:	NOTICE OF WITHDRAWAL
Application No. 10/276,856	:	FROM ISSUE
Filed: November 20, 2002	:	UNDER 37 CFR § 1.313
Attorney Docket No. 001309.00034	:	

The above-identified application is withdrawn from issue pursuant to 37 CFR § 1.313 to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further 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 in 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.

Telephone inquires should be directed to Supervisory Patent Examiner Peter M. Cuomo at (571)-272-6856.

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

John J. Love

John J. Love, Director
Technology Center 3600

cc: Office of Patent Publication

3636

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 24 2005

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BANNER & WITCOFF
1001 G Street N W
Suite 1100
Washington, DC 20001

In re Application of:	:	
Akihiro Kishimoto, et.al.	:	NOTICE OF WITHDRAWAL
Application No. 10/276,856	:	FROM ISSUE
Filed: November 20, 2002	:	UNDER 37 CFR § 1.313
Attorney Docket No. 001309.00034	:	

The above-identified application is withdrawn from issue pursuant to 37 CFR § 1.313 to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further 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 in 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.

Telephone inquires should be directed to Supervisory Patent Examiner Peter M. Cuomo at (571)-272-6856.

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

John J. Love

John J. Love, Director
Technology Center 3600

cc: Office of Patent Publication

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Alexandria, VA 22313-1450
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MAY 24 2005

BANNER & WITCOFF
1001 G Street N W
Suite 1100
Washington, DC 20001

In re Application of:	:	
Akihiro Kishimoto, et.al.	:	NOTICE OF WITHDRAWAL
Application No. 10/276,858	:	FROM ISSUE
Filed: November 20, 2002	:	UNDER 37 CFR § 1.313
Attorney Docket No. 001309.00032	:	

The above-identified application is withdrawn from issue pursuant to 37 CFR § 1.313 to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further 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 in 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.

Telephone inquires should be directed to Supervisory Patent Examiner Peter M. Cuomo at (571)-272-6856.

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

John J. Love

John J. Love, Director
Technology Center 3600

cc: Office of Patent Publication

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1001 G Street N W
Suite 1100
Washington, DC 20001

In re Application of:	:	
Akihiro Kishimoto, et.al.	:	NOTICE OF WITHDRAWAL
Application No. 10/276,858	:	FROM ISSUE
Filed: November 20, 2002	:	UNDER 37 CFR § 1.313
Attorney Docket No. 001309.00032	:	

The above-identified application is withdrawn from issue pursuant to 37 CFR § 1.313 to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further 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 in 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.

Telephone inquires should be directed to Supervisory Patent Examiner Peter M. Cuomo at (571)-272-6856.

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

John J. Love

John J. Love, Director
Technology Center 3600

cc: Office of Patent Publication

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MAY 24 2005

BANNER & WITCOFF
1001 G Street N W
Suite 1100
Washington, DC 20001

In re Application of:	:	
Akihiro Kishimoto, et.al.	:	NOTICE OF WITHDRAWAL
Application No. 10/276,862	:	FROM ISSUE
Filed: November 20, 2002	:	UNDER 37 CFR § 1.313
Attorney Docket No. 001309.00030	:	

The above-identified application is withdrawn from issue pursuant to 37 CFR § 1.313 to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further 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 in 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.

Telephone inquires should be directed to Supervisory Patent Examiner Peter M. Cuomo at (571)-272-6856.

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

John J. Love, Director
Technology Center 3600

cc: Office of Patent Publication

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SEP 10 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

In re Application of :
Kyung Suk Yun, et al. :
Application No. 10/276,880 : DECISION ON PETITION
Filed: July 11, 2003 : TO WITHDRAW
Attorney Docket No. 300602003400 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 24, 2007.

The request is **DSIMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE', PHD
DARBY & DARBY, PC
1500 K STREET, NW
SUITE 250
WASHINGTON, DC 20005-1714

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111 CENTER STREET, SUITE 1200
LITTLE ROCK AR 72201

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MAY 20 2008

OFFICE OF PETITIONS

In re Application of :
NUNNALLY, William C. :
Application No. 10/276,884 : DECISION ON PETITION
Filed: November 15, 2002 : TO WITHDRAW
Attorney Docket No. **SL5309** : 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 17, 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DWIGHT PIERCE**
SUNLASE, INC.
P.O. BOX 35287
TULSA, OK 74153

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J. CHARLES DOUGHERTY
200 WEST CAPITOL AVE, SUITE 2300
LITTLE ROCK, AR 72201

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AUG 25 2008

In re Application of :
NUNNALLY, William C. :
Application No. 10/276,884 : DECISION ON PETITION
Filed: November 15, 2002 : TO WITHDRAW
Attorney Docket No. SL5309 : FROM RECORD
:

This is a decision on the renewed request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 20, 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 Kyla D. Aycock on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: WILLIAM C. NUNNALLY
P.O. BOX 30545
COLUMBIA, MO 65205

cc: DWIGHT PIERCE
SUNLASE, INC.
P.O. BOX 35287
TULSA, OK 74153

05 SEP 200

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

In re Application of
ANDERSSON (deceased)
Application No.: 10/276,943
PCT No.: PCT/SE01/01056
Int. Filing Date: 15 May 2001
Priority Date: 16 May 2000
Attorney Docket no.: 230.022
For: IRON-BASE ALLOY CONTAINING CHROMIUM-TUNGSTEN CARBIDE AND A METHOD OF PRODUCING IT

DECISION ON

SUBMISSION

37 CFR 1.42

This is a decision on the submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 25 July 2003.

On 15 November 2002, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee. On 03 June 2003, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) & (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 25 July 2003, in order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicants filed a declaration that was signed by Mikael Andersson, Henrik Andersson and Helena Andersson as "heirs" for inventor Carl-Håkan Andersson (deceased). The declaration was also executed by the joint inventors. The declaration provided the citizenship, residency and mailing address of the inventors and the heirs as well as the last known address, residency and citizenship of the deceased inventor. The requirements of 37 CFR 1.497 have been met.

Accordingly, it is appropriate to accord the application status under 37 CFR 1.42.

CONCLUSION

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

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is 25 July 2003.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (703) 306-5467

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Paper No.

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

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Tjeerd Barf et al
Application No. 10/276,954
Filed: February 18, 2003
Attorney Docket No. 14108-099001

ON PETITION

This is a decision on the petition, filed January 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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#6

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ALEXANDRIA, VA 22313-1450
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21 JUL 2003

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

In re Application of	:	
FISCHERS et al.	:	
Application No.: 10/276,962	:	DECISION ON
PCT No.: PCT/IB01/01710	:	
Int. Filing Date: 25 May 2001	:	PETITION UNDER
Priority Date: 24 May 2000	:	
Attorney Docket No.: 2107.0310000/LEA/TUM	:	37 CFR 1.181
For: MOLD MATERIAL PROCESSING DEVICE, METHOD AND APPARATUS FOR PRODUCING SAME	:	

This decision is in response to the submission filed via facsimile transmission on 14 July 2003, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 25 May 2001, applicants filed international application PCT/IB01/01710 which claimed a priority date of 24 May 2000 (24 May 2001 being a non-working day at the International Bureau, PCT Gazette, 18 January 2001, page 1222). A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 April 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 December 2001, prior to nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 November 2002.

On 21 November 2002, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, the basic national fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date. 14 Apr 03

On 07 July 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)-(b) was required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 14 July 2003, applicants filed the instant submission via facsimile transmission, which

has been treated as a petition under 37 CFR 1.181. The submission was accompanied by, *inter alia*, a date-stamped postcard receipt and a declaration of inventors.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 11 April 2003 applicants filed the declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a United States Patent and Trademark Office (USPTO) date stamp of 11 April 2003 and which itemizes the declaration and identifies the above-captioned docket number and application number. Further, practitioner states that the copy of the declaration filed 14 July 2003 is a true copy of the declaration originally filed 11 April 2003. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 14 July 2003 may properly be accepted as originally received in the USPTO on 11 April 2003. The declaration of inventors filed 11 April 2003 is in compliance with 37 CFR 1.497(a)-(b). Accordingly, the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 07 July 2003 is hereby VACATED.

DECISION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 07 July 2003 is VACATED for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. 371(c) date of **11 April 2003**.

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

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ALEXANDRIA, VA 22313-1450
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MAY -6 2005

In re Application of	:	
Alexander F. Parker	:	
Serial No. 10/276,967	:	WITHDRAWAL FROM
Filed: February 11, 2003	:	ISSUE
For: METHOD AND SYSTEM FOR	:	
PROVIDING ONLINE DISTRANCE	:	
LEARNING	:	

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

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

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

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

E. R. Kazenske, Director
Technology Center 3700

Steven B. Pokotilow
Stroock & Stroock & Lavan
180 Maiden Lane
New York, NY 10038

06 MAY 2004

#6

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Kevin R. Spivak
Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

In re Application of ENGMANN et al.
Application No.: 10/276,973
PCT No.: PCT/DE01/01890
Int. Filing: 17 May 2001
Priority Date: 22 May 2000
Attorney Docket No.: 449122045200
For: METHOD AND SYSTEM FOR LOGGING A SUBSCRIBER STATION ONTO THE PACKET SERVICE-SERVICE STATE CONTROL FUNCTION CSCF IN A COMMUNICATIONS SYSTEM

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.47(a)

This is a decision on applicant's "Renewed Petition under 37 CFR 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 01 December 2003.

BACKGROUND

On 04 August 2003, in response to the 03 April 2003 Notification of Missing Requirements, applicants filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Ralf Jasper, on the grounds that the nonsigning inventor refused to execute the application.

On 26 September 2003, a decision dismissing applicant's petition was mailed indicating that applicant had failed to provide factual proof that the non-signing joint inventor refused to execute the application.

On 01 December 2003, applicant filed the instant renewed petition supplementing the initial petition under 37 CFR 1.47(a) with an English translation of the postal receipt and the English translation of the 30 April 2003 letter of Ms. Göbel to Mr. Jasper in support of the assertion that Mr. Jasper refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant previously satisfied Items (1),(3) and (4).

With respect to Item (2), applicant has now provided an English translation of the German postal receipt asserted as evidence of inventor Ralf Jasper receipt of the application

papers. The postal receipt is sufficient evidence of the non-signing inventor's 10 May 2003 receipt of the mailing from Siemens AG.

Petitioner also provided an English translation of the 30 April 2003 letter from Siemens AG to Mr. Jasper under the signature of Desiree Göbel. The translation indicates that the PCT application, declaration and assignment were presented to Mr. Jasper for his review and signature. The letter is referenced in Desiree Göbel's affidavit filed with the initial petition under 37 CFR 1.47(a). In her affidavit, Ms. Göbel states that "on April 30, 2003, a third set of documents, enclosing the Application, Assignment and Declaration and Power of Attorney was mailed to Mr. Ralf Jasper".

Taken together, Petitioner has provided sufficient evidence to conclude that Ralf Jasper's conduct constitutes a refusal to sign the application. Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the above reasons, the petition under 37 CFR §1.47(a) is **GRANTED.**

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 04 August 2003 and to mail a filing receipt. The application has an international filing date of 17 May 2001 under 35 U.S.C. 363, and a date of 04 August 2003 under 35 U.S.C. 371(c).

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

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

06 MAY 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

RALF JASPER
BOETZOWSTR.49
10407 BERLIN, GERMANY

In re Application of ENGMANN et al.
Application No.: 10/276,973
PCT No.: PCT/DE01/01890
Int. Filing: 17 May 2001
Priority Date: 22 May 2000
Attorney Docket No.: 449122045200
For: METHOD AND SYSTEM FOR LOGGING A SUBSCRIBER STATION ONTO THE PACKET SERVICE-SERVICE STATE CONTROL FUNCTION CSCF IN A COMMUNICATIONS SYSTEM

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.47(a)

Dear Mr. Jasper:

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.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

Kevin R. Spivak
Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of a national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventors. The inventor whose signature is missing (Ralf Jasper) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/DE01/01890 and was filed on 17 May 2001 in the names of Steffen Engmann, Uwe Föll, Elmar Hass and Ralf Jasper for the invention entitled METHOD AND SYSTEM FOR LOGGING A SUBSCRIBER STATION ONTO THE PACKET SERVICE-SERVICE STATE CONTROL FUNCTION CSCF IN A COMMUNICATIONS SYSTEM. The national stage application is assigned number 10/276,973 and has a 35 U.S.C. 371(c) date of 04 August 2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

26 SEP 2003

Kevin R. Spivak
Morrison & Foerster
Suite 300
1650 Tysons Boulevard
McLean, VA 22102

In re Application of	:	
Engmann, Foell, Haas, and Jasper	:	
Application No. 10/276,973	:	
PCT No.: PCT/DE01/01890	:	DECISION ON PETITION
International Filing Date: 17 May 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 22 May 2000	:	
Attorney Docket No.: 449122045200	:	
For: SYSTEM AND METHOD FOR REGISTERING	:	
A SUBSCRIBER STATION ON THE PACKET	:	
SERVICE CALL STATE CONTROL FUNCTION	:	
CSCF IN A COMMUNICATIONS SYSTEM	:	

This is a decision on the applicant's petition under 37 CFR 1.47(a) filed 4 August 2003, to accept the application without the signature of joint inventor Jasper.

BACKGROUND

On 17 May 2001, applicant filed international application PCT/DE01/01890 which claimed priority to a German application filed 22 May 2000. A demand for international preliminary examination, in which the United States was elected, was made within nineteen months of the international filing date . Accordingly, pursuant to 37 CFR 1.495, the thirty month period for paying the basic national fee expired at midnight 22 November 2002.

On 21 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 USC 371(c)(1).

On 03 April 2003, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration. The

notification set a two-month time limit in which to respond.

On 10 December 2002, applicant filed the instant petition under 37 CFR 1.47(a). The petition was accompanied by an oath or declaration signed by all the named inventors, except inventor Jasper, a statement authored by Ms. Desiree Gobel, and a copy of a postal receipt.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration signed by each 37 CFR 1.47(a) applicant on his behalf and on behalf of the non-signing inventor.

As to Item (1), the petition fee of $130.00 will be charged to deposit account 03-1952.

As to Item (3), a the petition states the last known address of the non-signing inventors.

As to Item (4) applicant has provided an oath or declaration that is signed by each named inventor on his behalf and on behalf of the non-signing inventor.

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

As to item (2), the petition was accompanied by a postal receipt that applicant asserts is evidence of inventor Jasper's receipt of the application papers. The postal receipt alone is not sufficient factual proof of inventor Jasper's receipt of the application papers because: 1) an adequate translation of the postal receipt was not provided. Additionally, applicant has not provided copies or translations of any of the three cover letters to inventor Jasper which are referenced in Ms. Goebel's statement. Applicant must provide a translation of the postal receipt and establish that the postal receipt allegedly showing the signature of inventor Jasper accompanied the application papers as well as providing copies and translations of any letters sent to inventor Jasper.

For the reasons stated above, it would not be appropriate to accept the application without the signatures of inventor Jasper under 37 CFR 1.47(a) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice**.

Applicant's are hereby afforded TWO (2) MONTHS from the mailed date of this decision to file

either 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by all inventors or (2) a renewed petition satisfying the requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter titled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia, 22313-1450.

Richard Cole
PCT Legal Advisor
Office of PCT Legal Administration

Telephone (703)305-0010
Facsimile (703) 308-6459

Kenya A. McLaughlin
PCT Detailee
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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JAN 31 2008

OFFICE OF PETITIONS

In re Application of	:	
Steffen Engmann et al.	:	
Application No. 10/276,973	:	DECISION ON PETITION
Filed: August 4, 2003	:	TO WITHDRAW
Attorney Docket No. 449122045200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on October 28, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAILED
FROM DIRECTORS OFFICE
MAR 04 2005
TECHNOLOGY CENTER 3600

BANNER & WITCOFF
1001 G Street N W
Suite 1100
Washington, DC 20001

In re Application of
Akihiro Kishimoto et al
Application No. 10/276,999
Filed: November 20, 2002
For: PANEL

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 January 14, 2005.

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 March 23, 2004.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/jwk: 2/1/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20060913

DATE : 05/17/06

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/277002** Patent No.: **6951875**

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 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

Conrad O. Gardner
7755 E. Marginal Way S.
P.O. Box 3707, M/C 13-08
Seattle WA 98124-2207

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APR 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Luis J. Lazaro	:	DECISION ON PETITION
Application No. 10/277,005	:	
Filed: October 17, 2002	:	
Attorney Docket No. 95-1060	:	

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

The petition is **DISMISSED.**

The petition under 37 CFR 1.137(b) will not be treated on its merits, but rather will remain in the file until the United States Patent and Trademark Office (Office) receives a renewed petition under 37 CFR 1.137(b), as well as the payment of the requisite petition fee of $1,500.00, the amount due on the filing of the petition.[1]

The Office notes:

35 U.S.C. 41(a)(7) provides that a petition for revival of an unintentionally abandoned application . . . must be accompanied by a petition fee set for in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding abandonment (i.e., it is determined that the application is not properly held

[1] Petitioner's Deposit Account No. 02-2960 does not contain sufficient funds to pay the total amount of the petition fee.

abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived. MPEP 711.03(c)(III)(B).

Accordingly, the Office lacks the discretion to, and will not, address the merits of any petition seeking revival of an abandoned application in the absence of the payment of the petition fee required by statute. In this regard, this application is properly considered abandoned by operation of 35 USC § 133 for failure to prosecute.

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

There is no indication that Laurence A. Savage was ever empowered to prosecute the instant application. Moreover, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If Mr. Savage desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and a change of address must be submitted. A courtesy copy of this decision will be mailed to Mr. Savage. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows 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: (703) 872-9306
Attn: Office of Petitions

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Laurence A. Savage
P.O. Box 3707, MC: 11-XT
Seattle, WA 98124-2207

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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Laurence A. Savage
P.O. Box 3707, MC: 11-XT
Seattle, WA 98124-2207

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of :
Luis J. Lazaro : DECISION ON PETITION
Application No. 10/277,005 :
Filed: October 17, 2002 :
Attorney Docket No. 95-1060 :

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

This application became abandoned for failure to reply properly and timely to the final Office Action mailed June 30, 2004, which set a three (3) month shortened statutory period to reply. Petitioner obtained an extension of time for response within the first month. Accordingly, this application became abandoned on October 31, 2004. A Notice of Abandonment was mailed on February 24, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted**.

With the present petition, petitioner submitted a Statement under 37 CFR 3.73(b), stating that an assignment from the inventor to The Boeing Company was recorded in the USPTO at Reel 9063, Frame 0429. After reviewing the assignment records, the Office has no record of the assignment stemming from this application or any prior continuation or divisional application. For this reason, the Statement under 37 CFR 3.73(b) will not be made of record.

As previously stated, it does not appear that Laurence A. Savage was ever empowered to prosecute the above-identified application. Moreover, petitioner did not submit a revocation of power of attorney with an appointment of a new power of attorney and a change of address as suggested in the previous decision. If Mr. Savage

desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and a change of address must be submitted. A form entitled "Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address" accompany this decision for petitioner's convenience.

A copy of this decision will be mailed to Mr. Savage as a courtesy. **However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.**

This matter is being referred to Technology Center Art Unit 2839.

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
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Laurence A. Savage
P.O. Box 3707, MC: 11-XT
Seattle, WA 98124-2207

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Luis J. Lazaro : **CORRECTED**
Application No. 10/277,005 : DECISION ON PETITION
Filed: October 17, 2002 :
Attorney Docket No. 95-1060 :

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

This application became abandoned for failure to reply properly and timely to the final Office Action mailed June 30, 2004, which set a three (3) month shortened statutory period to reply. Petitioner obtained an extension of time for response within the first month. Accordingly, this application became abandoned on October 31, 2004. A Notice of Abandonment was mailed on February 24, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted**.

With the present petition, petitioner submitted a Statement under 37 CFR 3.73(b), stating that an assignment from the inventor to The Boeing Company was recorded in the USPTO at Reel 9063, Frame 0429. Upon review, it appears that an assignment to The Boeing Company stemming from a prior continuation application was filed and recorded with the USPTO. For this reason, the Statement under 37 CFR 3.73(b) will be entered.

As previously stated, it does not appear that Laurence A. Savage was ever empowered to prosecute the above-identified application. Moreover, petitioner did not submit a revocation of power of attorney with an appointment of a new power of attorney and a change

of address as suggested in the previous decision. If Mr. Savage desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and a change of address must be submitted.

A copy of this decision will be mailed to Mr. Savage as a courtesy. **However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.**

This matter is being referred to Technology Center Art Unit 2839.

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
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JAN 06 2010

OFFICE OF PETITIONS

MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

In re Patent No. 7,005,864
Issue Date: February 28, 2006
Application No. 10/277,008
Filed: October 21, 2002
Attorney Docket No. 1024-002

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) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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GRANT ANDERSON LLP
C/O PORTFOLIOIP
PO BOX 52050
MINNEAPOLIS MN 55402

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Koster, et al. : DECISION
Application No.: 10/277,021 :
Filed: October 17, 2002 :
Docket No.: SEQ-2003-RI :

This decision is in response to the petition under 37 CFR 1.183, filed June 22, 2007, to waive the requirements of 37 CFR 1.175(b).

The provisions of 37 CFR 1.183 provide that "[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 Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

A grantable petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.175(b) requires petitioners to demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The petition has been carefully considered and supports the conclusion that despite bona fide effort to procure the signature of the non-signing inventor on the supplemental declaration, the non-inventor either cannot be reached or refuses to execute the supplemental declaration.

In view thereof, the petition under 37 CFR 1.183 is hereby **GRANTED**.

This application is being forwarded to Technology Center 1600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 29 2004

VP
PAPER NO. ___

In re Application of
Jimmy Louis McIllwain
Serial Number: 10/277,024
Filed: October 21, 2002
For: A FRONT LOADING WASHING MACHINE WITH A MODIFIED WASH/RINSE CYCLE FOR USING LESS WATER

PETITION UNDER
M.P.E.P.708.02 III
and V

This is in response to the petition filed March 24, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 III and V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Sections 708.02 III and V of the MPEP is granted because criteria under 37 CFR 1.102(c) have been met.

Accordingly the petition is **GRANTED.**

William A. Krynski, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Daniel D. Chapman
Jackson Walker L.L.P.
Ste. 2100
112 E. Pecan
San Antonio TX 78205

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

Fleit Kain Gibbons Gutman & Bongini
601 Brickell Key Drive, Suite 404
Miami, FL 33131

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Drayton Miller et al. :
Application No. 10/277,038 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No. 746-A02-004 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 6, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts (Notice) mailed November 21, 2002, which set a period for reply of Two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 22, 2003.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas L. Peterson
400 7th Street
Suite 304
Washington, DC 20004

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of:
SCHULTZ, James A.
Application No.: 10/277,085
Filed: October 22, 2002
Atty's Docket No.: None

DECISION ON PETITION UNDER
37 CFR 1.137(b)

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

The petition is **DISMISSED** without prejudice.

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

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed October 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on January 20, 2005.

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

As discussed below, the present petition fails to satisfy item (1) above. The application cannot be revived in the absence of the reply necessary to continue prosecution. See MPEP 711.03(c)(II)(A).

In an application or patent, abandoned or lapsed for failure to pay the issue and publication fees or any portion thereof, the required reply must be the payment of the issue and publication fees or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1). Applicant here has submitted $685 as the small entity issue fee and $300 as the publication fee. However, the appropriate small entity issue fee as of May 11, 2005 (the date the fees were submitted) was

$700. Applicant has therefore failed to submit the full required issue fee.[1] Accordingly, applicant has failed to file the "required reply" necessary for a grantable petition.

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

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

By facsimile: (571) 273-0025
Attn: Office Of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22313

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

Frances Dicks for

Brian Hearn
Petitions Examiner
Office Of Petitions

[1] The petition did not include the authorization to charge additional fees to a Deposit Account.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas L. Peterson
400 7th Street
Suite 304
Washington, DC 20004

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SEP 28 2005

OFFICE OF PETITIONS

In re Application of:
SCHULTZ, James A.
Application No.: 10/277,085
Filed: October 22, 2002
Atty's Docket No.: None

DECISION ON RENEWED PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the "Request For Reconsideration" filed September 21, 2005, treated herein as a renewed petition under 37 CFR 1.137(b) to revive the application.

The renewed petition is **GRANTED**.

In a decision mailed herein on August 11, 2005, applicants' original petition for revival under 37 CFR 1.137(b) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide the "required reply,"that is, payment of the full issue and publication fee (applicant's payment for such fees had been $15 less than the amount required).

The renewed petition filed September 21, 2005 includes the authorization to charge Deposit Account No. 50-3559 for any required fees, including the $15 deficiency in the required issue fee. Applicants have therefore now satisfied the remaining requirement for a grantable petition for revival under 37 CFR 1.137(b). Accordingly, the payment of the issue and publication fee in response to the Notice Of Allowance mailed October 20, 2004 is accepted as having been unintentionally delayed.

The application file is being referred to the Office Of Publications.

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

Frances Hicks for

Brian Hearn
Petitions Examiner
Office Of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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MAY 12 2006
OFFICE OF PETITIONS

In re Application of :
kumar et al. :
Application No. 10/277,089 :
Filed: October 22, 2002 : ON PETITION
Attorney Docket Number: :
4062-34 :

This is in response to the Petition for Suspension of the Rules Under Rule 37 CFR 1.183, filed April 14, and April 17, 2006.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [the applicable code setion]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application was filed on October 22, 2002, without an oath/declaration. In response, this Office mailed a Notice to File Missing Parts of Nonprovisional Application on November 20, 2002, requiring, *inter alia*, an executed oath/declaration.

The Office subsequently withdrew the Notice on February 26, 2003, and issued a Notice to File Corrected Application papers, requiring a substitute specification. However, a review of Office records reveal that a oath/declaration had not been filed in the application.

Applicant filed an oath/declaration on November 17, 2005 that included only the family name of inventor Rajesh.

Applicant files the instant petition and requests waiver of 37 CFR 1.63(a)(2), which requires Applicant to "[i]dentify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial." In support of this request, Applicant provides that inventor Rajesh "no longer uses his family name in his legal affairs. Instead, he is known only as 'Rajesh' - even on official correspondence with the Indian Government." Petition at pp. 1-2. A Declaration of Rajesh is also included with the petition attesting to the assertion that Rajesh is the only name used by the inventor, and that all correspondence from the government of India is addressed to Rajesh as only "Dr. Rajesh". Declaration at p.1.

Analysis

Applicant has failed to demonstrate an adequate showing of "an extraordinary situation" in which "justice requires" suspension of the requirements set forth in 37 CFR 1.63(a)(2). 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). A situation that could have been avoided by a party following the established rules and procedures does not constitute "an extraordinary situation" in which "justice requires" a waiver of the regulations. Id. (Emphasis supplied). Circumstances resulting from petitioners', or petitioners' counsel'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).

Applicant's request for waiver of the rules is supported by the inventor's assertion that he no longer uses his family name. A grantable petition to change the name of an inventor under 37 CFR 1.182 requires (1) the petition fee; and (2) either (a) a declaration signed with both names with an explanation of how the change was effected (marriage, divorce, etc.); or (b) provide a certified copy of a court order for the name change. *See*, MPEP 605.04(c).

Applicant has not submitted any documentation that would support the grant of a petition to change the name of the inventor. If Applicant has a copy of a certificate of marriage or divorce, or a certified copy of a court order for the name change, Applicant

should submit such copies in any request for reconsideration of this petition.

If Applicant has not changed his name, Applicant should file a copy of a birth certificate or other national or state document that supports his assertion that his name is only "Rajesh".

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. See U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983); Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985). 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. 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).

Accordingly, the petition is dismissed.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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NOV 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Kumar et al. :
Application No. 10/277,089 : ON PETITION
Filing or 371(c) Date: 10/22/2002 :
Title of Invention: POLYMER BASED :
ENZYME ELECTRODE FOR :
ESTIMATION OF CHOLESTEROL :
AND PROCESS FOR :
PREPARATION THEREOF :

This is a decision on the "Renewed Petition Under 37 C.F.R. § 1.183 and Declaration of Larry S. Nixon, filed August 11, 2006, requesting waiver of the requirements of 37 CFR 1.63(a)(2), which requires the oath or declaration to identify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial.

Background

The application was filed on December 22, 2002, without an oath or declaration. In response, this Office mailed a Noticeto File Missing Parts of Nonprovisional Application on November 20, 2002, requiring, inter alia, an executed oath/declaration.

This Office subsequently withdrew the Notice on February 226, 2003, and issued a Notice to File Corrected Application papers, requiring a Substitute Specification. However, a review of Office records revealed that an oath or declaration had not been filed in the Application.

Applicant filed an oath/declaration on November 17, 2005, that included only the family name of inventor Rajesh.

The April 14, 2006 petition

Applicant filed a petition on April 14, 2006, requesting waiver of 37 CFR 1.63(a)(2), 9which requires the oath or declaration to identify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial). In support of this petition, Applicant stated that inventor Rajesh "no longer uses his

family name in his legal affairs. Instead, he is known only as 'Rajesh' – even on Official correspondence with the Indian Government." April 14, 2006 Petition at pp. 1-2. The petition also included a Declaration of Rajesh attesting to the assertion that Rajesh is the only name used by the inventor, and that all correspondence from the government of India is addressed to Rajesh as only "Dr. Rajesh". Declaration in Support of April 14, 2006 petition at p.1.

The May 12, 2006 petition dismissing the petition

The April 14, 2006 petition was dismissed in a Decision mailed May 12, 2006. The Decision informed petitioner that he had failed to demonstrate that this was an extraordinary situation in which justice requires suspension of the rules. In view of Applicant's assertion, that inventor Rajesh "no longer uses his family name in his legal affairs..., the Decision further informed petitioner of the requirements for a grantable petition to change the name of an inventor.

The instant renewed petition

Applicant files the instant renewed petition and clarifies that inventor Rajesh has only one name. In support of this assertion, applicant provides a copy of Rajesh's passport, and a copy of Rajesh's "School Leaving Certificate", which, according to a letter from counsel in India and filed with the petition, evidences birth-date and surname. Both documents list the name "Rajesh" only[1].

Accordingly, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

The petition under 37 CFR 1.183 is **GRANTED**.

The executed declaration, filed on November 17, 2005, will be entered, despite the fact that the requirement set forth in 37 CFR 1.63(a)(2), requiring Applicant to identify each inventor by full name, including the family name, and at least one given name without abbreviation, has not been satisfied.

The Notice; however, was correct in informing applicant that the rule requires Applicant to identify each inventor by full name, including the family name, and at least one given name without abbreviation, and will not be withdrawn.

Applicant's deposit account has been charged the fee for the petition under 37 CFR 1.183, $400.00.

---

[1] Applicant also asserts that the exact situation at hand is simply not contemplated by the rules, and that the legal precedent cited in the May 12, 2006 Decision is simply inapplicable; however, it is noted herein that Applicant has corrected the factual assertions presented in the April 14, 2006 petition, from an assertion that inventor Rajesh "no longer uses any family name", to an assertion that inventor Rajesh "has only one name". As such, the legal precedent cited in the May 12, 2006 was apropos.

The application file is being referred to Publishing Division for continued processing, using the declaration filed with the application on November 17, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 12 2007

OFFICE OF PETITIONS

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

In re Application of :
Thomas Baumann, et al. :
Application No. 10/277,111 : DECISION ON PETITION
Filed: October 22, 2002 : TO WITHDRAW
Attorney Docket No. 449122046500 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on September 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVN SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

OK TO ENTER: /S.H./ 04/25/2010

PTO-103X
(Rev. 6-99)

FILING RECEIPT

CORRECTED

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
09/400,530	09/21/99	1754	$890.00	84260	8	16	2

020736
FARKAS & MANELLI
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

Receipt is acknowledged of this nonprovisional 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 Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts of Application" ("Missing Parts Notice") in this application, please submit any corrections to this Filing Receipt with your reply to the "Missing Parts Notice." When the PTO processes the reply to the "Missing Parts Notice," the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s) STEINAR LYNUM, OSLO, NORWAY; JAN HUGDAHL, TRONDHEIM, NORWAY; KETIL HOX, TRONDHEIM, NORWAY; RAGNE HILDRUM, OSLO, NORWAY; MAGNE NORDVIK, FINNSTADJORDET, NORWAY.

FOREIGN APPLICATIONS- NORWAY 19971413 03/25/97

IF REQUIRED, FOREIGN FILING LICENSE GRANTED 10/08/99
TITLE
MICRO-DOMAIN GRAPHITIC MATERIALS AND METHOD FOR PRODUCING THE SAME

PRELIMINARY CLASS: 423

DATA ENTRY BY: BARNES, CAROL TEAM: 01 DATE: 11/05/99

(See reverse for new important information)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADAM K. SACHAROFF
MUCH SHELIST FREED DENENBERG AMENT & RUBENSTEIN, PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO, IL 60606-1615

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Adrian Simtion :
Application No. 10/277,142 : DECISION GRANTING PETITION
Filed: October 22, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 4001770.0001 :

This is a decision on the petition, filed March 11, 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 22, 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 November 17, 2005 accompanies this decision on petition.

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

UNITED STATES 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

Thomas M. Boyce, Esq.
FULBRIGHT & JAWORSKI L.L.P.
Suite 2400
600 Congress Avenue
Austin TX 78701

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of
Anna Di Rienzo et al.
Application No. 10/277,160
Filing Date: October 21, 2002
Attorney Docket No.: ARCD:357USC2
Title: METHODS FOR DETECTION OF PROMOTER POLYMORPHISM IN A UGT GENE PROMOTER

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 16, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or international applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed April 11, 2005 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

The amendment to the specification fails to indicate the relationship between the present application and applications 10/061,693 and 09/251,274.

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].

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.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

3 571-273-8300 - please note this is a central facsimile number.

UNITED STATES 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

Thomas M. Boyce, Esq.
FULBRIGHT & JAWORSKI L.L.P.
Suite 2400
600 Congress Avenue
Austin TX 78701

COPY MAILED

MAR 29 2006

OFFICE OF PETITIONS

In re Application of :
Anna Di Rienzo et al. :
Application No. 10/277,160 : DECISION ON RENEWED PETITION
Filing Date: October 21, 2002 : UNDER 37 C.F.R. §1.78(a)(3)
Attorney Docket No.: ARCD:357USC2 :
Title: METHODS FOR DETECTION OF :
PROMOTER POLYMORPHISM IN A UGT :
GENE PROMOTER

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The original petition was submitted on June 16, 2005 and was dismissed via the mailing of a decision on September 26, 2005.

The renewed petition is **GRANTED**.

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

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

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed non-provisional 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).

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(3) in that (1) a reference to the above-noted, prior-filed non-provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(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 non-provisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed non-provisional application, accompanies this decision on petition. Technology Center Art Unit 1634 will be notified of this decision, so that appropriate action can be taken on the amendment filed with this renewed petition, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional application.

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.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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

MACMILLAN SOBANSKI & TODD
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Christophe Roudet et al :
Application No. 10/277,168 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No. I-24084 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed March 18, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 19, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 13-0005 was charged a total of $2,990.00 -- $1,330.00 for the petition to revive an unintentionally abandoned application, $1,330.00 for the issue fee, $300.00 for publication fee, and $30.00 for ten (10) advance copies.

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

This matter is being referred to the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORITY & MANNING, P.A.
P.O. BOX 1449
GREENVILLE, SC 29602-1449

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of :
Rosann Kaylor et al :
Application No. 10/277,170 : DECISION ON PETITION
Filed: October 21, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. KCX-594(16879) :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 29, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional Application No. 60/336,611, filed December 4, 2001, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed on October 21, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed provisional application has been included in the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly,

having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/336,611 is granted.

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

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

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

The application is being forwarded to Technology Center AU 3629 for appropriate action on the amendments submitted December 29, 2003, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/336,611.

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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GEHRKE & ASSOCIATES, S.C.
INTELLECTUAL PROPERTY LAW
123 NORTH 86TH STREET
WAUWATOSA, WI 53226

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MAY 01 2007

OFFICE OF PETITIONS

In re Application of :
Alexander Rizkin, et al. :
Application No. 10/277,230 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No. 300.012 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 17, 2004. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A Notice of Abandonment was mailed on June 1, 2005.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $395; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

It is noted that a petition under 37 CFR 1.181 to withdraw the holding of abandonment was filed on January 13, 2006; however, the present petition requests that the petition be disregarded. Accordingly, the petition under 37 CFR 1.181 is dismissed as moot.

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, petitioner is entitled to a refund of the $285 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application file is being forwarded to Technology Center AU 2885, for further processing of the RCE under 37 CFR 1.114 filed December 11, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 06-06

Paper No: __

KENNETH E. KUFFNER
2476 BOLSOVER ST./STTE. 534
HOUSTON, TX 77005

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Allhussiny :
Application No. 10/277,247 : ON PETITION
Filed: 30 April, 2002 :
Attorney Docket No. GCM/501 :

This is a decision on a petition filed on 28 November, 2005, under 37 C.F.R. §1.137(b).

Petitioner Is Placed on Notice That, at the Time the Instant Decision Was Drafted, Use of Software Required to Enter the Revocation/power of Attorney Was Unavailable.

Petitioner Should Act to Ensure That the Revocation/power of Attorney Is Promptly Re-advanced to Ensure Mailings from the Office Are Properly Directed. Out of an Abundance of Caution, a Copy of this Decision Is Being Forwarded to the Applicant, Whose Address Was the Most Recently Entered Before the Last Notice.

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 25 May, 2005, with reply due absent extension of time on or before Monday, 27 June, 2005;

- the application went abandoned by operation of law after midnight 25 June, 2005;

- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;

- between 9 June and 16 November, 2006, several conflicting **Revocation/Power of Attorney** have been filed–the most recent of 16 November, 2005, which, **it is again noted, could not be entered at the time the instant decision was drafted due to the unavailability of the required software, and Petitioner should be cautious and act to ensure that this matter is addressed promptly**;

- on 28 November, 2005, Petitioner filed the instant petition, fee, reply in the form of a paper identified as an Election, and made a statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

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[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

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

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

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

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

cc:
KARIM ALHUSSINY
1307 DATEROSE COURT
HOUSTON TX 77062

---

[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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SEP 17 2005

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Matthew Stavish
Liniak, Berenato & White
Ste. 240
6550 Rock Spring Dr.
Bethesda, MD 20817

In re Application of :
Eric Keith Manning :
Application No. 10/277,254 :
Filed: October 22, 2002 :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

For: BELT TENSIONER ASSEMBLY FOR INTERNAL COMBUSTION ENGINE

This is a decision on the Petition to Withdraw the Holding of Abandonment, filed in the United States Patent and Trademark Office on May 27, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☒ Postcard receipt being dated February 25, 2005.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☐ Originally sent response, filed_____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

Randolph A. Reese

RAR/js: 9/1/05

Randolph A. Reese
Special Programs Examiner
Group 3600

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P.O. Box 1450
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ATTN: JOHN E. WURST
ALLIANCE PHARMACEUTICAL CORP.
4660 LA JOLLA VILLAGE DRIVE
SAN DIEGO, CA 92122

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of :
Habib Zaghouani :
Application No. 10/277,264 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No. ALLIA.143APC1 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed July 6, 2004, which set a one (1) month period for reply. Accordingly, this application became abandoned on August 7, 2004. A Notice of Abandonment was mailed on March 15, 2005.

The file is being forwarded to Technology Center 1600 for review of the "Response to Restriction Requirement," submitted May 23, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTERSON THUENTE SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MINNESOTA 55402-2100

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SEP 14 2004

OFFICE OF PETITIONS

In re Application of :
Jiayi Zhu et al :
Application No. 10/277,268 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. 3216.45US01

This is a decision on the petition, filed August 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter will be forwarded to Technology Center AU 1756 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Date : September 14, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/277,268

Applicant(s) : Jiayi Zhu et al
Application No. : 10/277,268
Filed : October 22, 2002

The above-identified application has been assigned Patent No. 6,794,103 and an issue date of September 21, 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 : September 21, 2004.

"All reference to Patent No. 6,794,103 to Jiayi Zhu et al of for ELECTROPHOTOGRAPHIC PHOTORECEPTORS WITH NOVEL OVERCOATS appearing in the Official Gazette of September 21, 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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WASHINGTON, D.C. 20231
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Paper No. 8

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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JAN 1 3 2003

OFFICE OF PETITIONS

In re Application of
Huettlin
Application No. 10/277,281
Filed: October 22, 2002
Attorney Docket No. 03052-P0009B
For: METHOD FOR TREATING PARTICULATE MATERIAL WITH A COATING MEDIUM AND AN APPARATUS FOR CARRYING OUT THE METHOD

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "PETITION TO ACCORD FILING DATE TO ITEMS ALLEGED OMITTED", filed November 25, 2002 (certificate of mailing date November 19, 2002), requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 8, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 22, 2002. On November 8, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner, *inter alia*, that drawing figure 3 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figure 3 be accorded a filing date of October 22, 2002 on the basis that 6 sheets of drawing figures, including drawing figure 3, were received in the Patent and Trademark Office (PTO) on October 22, 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 22, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 sheets of drawings. There are only 5 sheets present in the application file.

The return postcard constitutes *prima facie* evidence that 6 sheets of drawing figures, including drawing figure 3, were filed on October 22, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $130.00 petition fee will be credited to deposit account no. 19-4516.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 22, 2002, using the copy of drawing figure 3 submitted with the instant petition. Office records will be corrected to show that 6 sheets of drawings were present on filing.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 16 2006

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

In re Application of :
Darold D. Tippey :
Appl. No. 10/277,293 :
Filed: October 21, 2002 :
For: ADJUSTABLE ANVIL FOR A FLAT :
BEARER RING DIE :

DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to Applicant's Petition under 37 CFR 1.181 filed on January 7, 2005 to request a review of the final rejection filed on May 4, 2004 and the Advisory Action filed on November 23, 2004.

The petition is granted-in-part.

The above application was filed on October 21, 2002 and a final rejection was entered on May 4, 2004. Examiner first objected to the drawings under 37 CFR 1.83(a) on grounds that they failed to show every feature of the claimed invention. Specifically, Examiner claimed that the drawings failed to show the axial shifting of the cutter roll and anvil roll, a slideable anchored shaft, a right cylinder or washer ring, and a discrete position adjustor and actuator. Examiner then objected to the specification under 37 CFR 1.71 on grounds that it failed to disclose how the discrete angle shift of the anvil roll and cutter roll would occur with the screw, ratchet, cam or locking collar. Examiner further objected to the specification under the same regulatory provision for failing to teach the purpose of varying hardness factors and how the variance would affect the cutting operations. Lastly, Examiner objected to the specification for failing to specify a preferred hardness factor.

With regards to Examiner's drawing objection, Petitioner asserts that the locking collar is a conventional device used to maintain an axial shift and, therefore, it may be depicted as a rectangular box pursuant to 37 CFR 1.83(a). Petitioner presents the same contention with regards to the ratchet, screw and cam mechanisms. In reference to Examiner's objections to the specification, Petitioner asserts that the specification is not required to disclose the method of discrete axial shift because the invention utilizes a locking collar, which again, is conventionally used to maintain the said method. Accordingly, the specification is not required to describe "what is well-known to those skilled in the art . . . and already available to the public." *In re Buchner*, 929 F.2d 660, 661, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991), MPEP § 2164.05(a). Petitioner also repeats this contention with regards to the ratchet, screw and cam mechanisms.

Petitioner further maintains that the specification is adequate because it discloses the purpose of different hardness factors in a manner that is more than sufficient for a person of ordinary skill in the art to understand. Lastly, Petitioner asserts that he is not required to select a specific preferred embodiment of his invention.

Analysis

The locking collar is considered of sufficient simplicity that one of ordinary skill in the art could easily ascertain its structure, as well as the method of axially shifting the anvil roll by loosening, moving and retightening the locking collar. Accordingly, it may be depicted, as clearly provided by Petitioner, by a rectangular box pursuant to 37 CFR 1.83(a), which states: "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)." (emphasis added).

With respect to the other mechanisms, Petitioner has not shown or described the specific relationship in operability of the ratchet, screw or cam mechanisms in combination with the claimed invention. Pursuant to 37 CFR 1.83(a), "the drawing in a nonprovisional application must show every feature of the invention specified in the claims." In contrast to the locking collar, the other mechanisms can be considered more complex and possess multiple embodiments to execute functions for different types of environments. Due to the increased complexity of the other mechanisms and the need to obtain "a proper understanding of the invention," it would appear that drawings are necessary for understanding the relationship of each mechanism with the anvil apparatus to the degree that Petitioner believes that the combination is critical for claiming.

As previously discussed, the locking collar is capable of being understood by one of ordinary skill in the art. Accordingly, the specification disclosing the locking collar, and only the locking collar, is not required to describe the process used to maintain axial shifting by means of said mechanism:

> Where elements or groups of elements, compounds, and processes, which are conventional and generally widely know in the field of the invention described, and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. MPEP 608.01(a) ¶ 6.02.

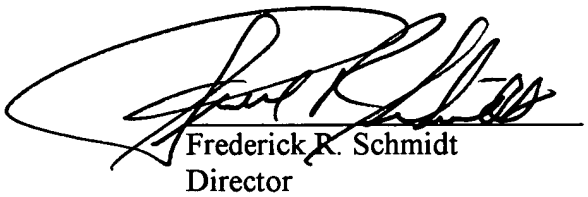
Under the same provision, the specification is also not required to disclose the purpose of the hardness factors. The purpose of differing hardness factors and their effects on cutting operations are well known in the field and therefore it is unnecessary to describe them in detail. The aforementioned provision of the MPEP also requires a detailed description of the "preferred embodiment(s)". Review of the record shows that Petitioner does offer several preferred embodiments and nothing requires that he affirmatively point to a specific one.

Although Petitioner's assertion with respect to the locking collar is persuasive, his assertions with respect to the other mechanisms are not. Therefore, Examiner's objections on these other mechanisms with respect to the environment appear valid.

In summary, Petitioner's request regarding the locking collar is granted. Petitioner's request regarding the other mechanisms is dismissed.

PETITION GRANTED-IN-PART.

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



Frederick R. Schmidt
Director
Technology Center 3700

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225 FRANKLIN STREET
BOSTON, MA 02110-2804

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MAR 11 2005

OFFICE OF PETITIONS

In re Application of :
Scott Gillis et al :
Application No. 10/277,298 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. 14072-020001 W598

This is a decision on the petition, filed March 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 1616 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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SEAN P. DALEY
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON MA 02110-2804

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OFFICE OF PETITIONS

In re Application of
Robert E. Burrell et al.
Application No. 10/277,320
Filed: October 22, 2002
Attorney Docket No. 14072-023001 / W 601

ON PETITION

This is a corrected decision on the petition under 37 CFR 1.182, filed on July 2, 2003, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Robert E. Burrell, Alberta, CANADA
2. John B. Wright, San Antonio, TX
3. Kan Lam, San Antonio, TX
4. Scott H. Gillis, Concord, MA
5. Paul Schecter, Dover, MA

This application is being forwarded to Technology 1616 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 8

FISH AND RICHARDSON, PC
225 FRANKLIN STREET
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Burrell, et al. :
Application No. 10/277,356 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. 14072-019001/W597 :

This is a decision on the petition under 37 CFR 1.182, filed July 2, 2003, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. ROBERT E. BURRELL
2. JOHN B. WRIGHT
3. KAN LAM
4. HUA QING YIN
5. ANTONY G. NAYLOR
6. PETER H. MOXHAM
7. SCOTT H. GILLIS
8. PAUL SCHECHTER

This application is being forwarded to Technology Center 1600 for examination *in due course*.

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

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

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Paper No. 9

FISH AND RICHARDSON, PC
225 FRANKLIN STREET
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Burrell, et al. :
Application No. 10/277,358 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. 14072-022001/W600 :

This is a decision on the petition under 37 CFR 1.182, filed July 2, 2003, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. ROBERT E. BURRELL
2. JOHN B. WRIGHT
3. KAN LAM
4. ANTONY G. NAYLOR
5. PETER H. MOXHAM
6. SCOTT H. GILLIS
7. PAUL SCHECHTER

This application is being forwarded to Technology Center 1600 for examination *in due course*.

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

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

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OFFICE OF PETITIONS

In re Application of :
Burrell, et al. :
Application No. 10/277,362 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. 14072-021001 / W599 :

This is a decision on the petition under 37 CFR 1.182, filed July 2, 2003, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. ROBERT E. BURRELL
2. JOHN B. WRIGHT
3. KAN LAM
4. HUA QING YIN
5. SCOTT H. GILLIS
6. PAUL SCHECHTER

This application is being forwarded to Technology Center 1600 for examination in due course.

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

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

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AUG 7 2003

#9

KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO, TX 78265

In re Application of	:	
Cesar Z. Lina	:	
Serial No.: 10/277,364	:	**REQUEST FOR EXPEDITED**
Filed: October 22, 2002	:	**EXAMINATION**
For: Pneumatic Pump, Housing	:	
And Methods for Medical Purposes	:	

This is in response to applicants' petition filed March 27, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

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Commissioner for Patents
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Alexandria, VA 22313-1450
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ROBERT VARITZ
4915 SE 33RD PLACE
PORTLAND, OR 97202

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of :
Michael A. Kriss :
Application No. 10/277,384 :
Filed: October 21, 2002 :
Attorney Docket No. SLA1171/SPEL.1018 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 28, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed November 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 $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of two sheets of replacement drawings containing Figures 1-4 filed on January 16, 2007.

This application file is being referred to the Office of Data Management to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Paper No. 13

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Juengling et al
Application No. 10/277,386
Filed: October 21, 2002
Attorney Docket No. MI22-2170

This is a decision on the petition, filed November 26, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 31, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1765 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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OFFICE OF PETITIONS
ON PETITION

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

In re Application of
Juengling et al
Application No. 10/277,386
Filed: October 21, 2002
Attorney Docket No. MI22-2170

This is a decision on the petition, filed November 26, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 31, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1765 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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#5

WOOD, HERRON & EVANS, L.L.P.
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

In re Application of :
Steven Marcangelo : DECISION PETITION
Serial No.: 10/277,394 :
Filed: October 22, 2002 :
Title: Programmable Tucking Attachment :
For Sewing Machine and Method :

This is in response to the petition applicant filed on March 10, 3003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

Motorola, Inc.
Intellectual Property Section
Law Department
8000 West Sunrise Blvd.
Ft. Lauderdale, FL 33322

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OCT 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Marc A. Boillot et al. :
Application No. 10/277,407 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. CM03499J :

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

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Non-Provisional Application (Notice) mailed November 21, 2002, which set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 22, 2003.

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

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 12 2007

In re application of Andrew J. M. Richards et al. :
Serial No. : 10/277,413 : DECISION ON PETITION
Filed : October 21, 2002 :
Attorney Docket No.: GJE-121D2Z :

BACKGROUND

This communication is in response to the petition filed September 30, 2004. Applicants petitioned to withdraw the application from issue under 37 CFR 1.313(a) in order to permit consideration of a Request for Interference. Search of the application file does not reveal any Request for Interference. However, on October 12, 2004 Applicants submitted a Request for Continued Examination (RCE) together with an amendment to the claims.

DISCUSSION

37 CFR 1.313(a) states:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary. **A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.** If the Office withdraws the application from issue, the Office will issue a new notice of allowance if the Office again allows the application.

Since Applicants filed a Request for Continued Examination before payment of the issue fee, no petition was required to withdraw the application from issue.

DECISION

Applicants' petition is DISMISSED as moot. The application is withdrawn from issue and will be forwarded to the examiner for consideration of the amendment filed October 12, 2004.

Any request for reconsideration or review of this decision must be made by a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.

John LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

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

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MAR 18 2003

OFFICE OF PETITIONS

In re Application of :
Miceli et al. :
Application No. 10/277,425 : ON PETITION
Filed: 21 October, 2002 :
Atty Dkt No. 020243-000111US :

This is a decision on the petition styled under 37 CFR 1.182 and filed on 30 December, 2002, which is treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of 21 October, 2002, with Figures 1(c)-(f) described in the specification as a part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on 21 October, 2002. However, on 16 December, 2002, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 21 October, 2002, and advising applicants that Figures 1(c)-(f) described in the specification appeared to have been omitted.

In response, the present petition was filed on 30 December, 2002. Petitioners have submitted with the petition a copy of two (2) sheets of drawings containing Figures 1(c)-(f) of the specification. Petitioners concede that Figures 1(c)-(f) were inadvertently omitted, but state that Figures 1(c)-(f) do not contain any new matter. In the alternative, petitioners request that the application be accorded a filing date as of the date of receipt of the missing figures.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard

receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing page was deposited on 21 October, 2002, nor request the 30 December, 2002 (the date the missing page was supplied) filing date, except in the alternative. Rather, petitioners first assert that the missing figures do not contain new matter.

If petitioners wish to assert that Figures 1(c)-(f) do not add any new matter to the application, petitioners should file a preliminary amendment adding Figures 1(c)-(f). Amendments to the specification may be entered by the primary examiner without petition so long as the amendment contains no new matter.[1] If petitioners file Figures 1(c)-(f) as a preliminary amendment, the amendment will be reviewed for new matter by the examiner. If Figures 1(c)-(f) are subsequently determined to contain new matter, petitioners may petition under 37 CFR 1.182 that the application be accorded a filing date of 30 December, 2002, with Figures 1(c)-(f), as a part of the original disclosure.

Accordingly, the petition is inappropriate and is subject to dismissal. As the petition was not due to an error on the part of the USPTO, the petition fee will not be refunded.

The application will be processed and examined using only the application papers filed on 21 October, 2002. The two (2) sheets of drawings containing Figures 1(c)-(f) supplied on 30 December, 2002, will not be used for processing or examination, but will be retained in the application file.

---

[1] 37 CFR 1.121(b).

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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/23/06

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/194560 Patent No.: **6811470**

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: APPROVE

LEE D. WILSON
PRIMARY EXAMINER

SPE

3723
Art Unit

PTO/SB/44 (04-05)
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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.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 6,811,470 B2

APPLICATION NO. : 10/194,560

DATED : Nov. 2, 2004

INVENTOR(S) : Bonner Benjamin A, Iyer Anand N., Kumar Deepak N., Osterheld Thomas H., Hsu Wei-Yung, Kim, Yong-Sik R., Smith Christopher W., Zhang Huanbo

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

In column 16, line 51, after "30:1", insert "or".

In column 16, line 52, delete "A method" and replace with "The method".

In column 17, line 4, delete "dishing" and replace with "polishing".

In column 17, line 63, after "has a", delete "cerie" and replace with "ceria".

In column 18, line 1, after "claim", delete "30" and replace with "35".

In column 18, line 10, after "composition is", delete "preferred" and replace with "performed".

In column 16, line 51, after "wherein" delete "dishing" and replace with "polishing".

In column 18, line 49, delete "position" and replace with "first polishing composition".

In column 19, line 4, after "wherein the" insert "second".

In column 19, line 36, after "material to", delete "d" and replace with "second".

In column 20, line 28, delete "perform" and replace with "performed".

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Keith M. Tackett
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd., Suite 1500
Houston, TX 77056-6582

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

MAY 15 2006

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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MAR 12 2007

OFFICE OF PETITIONS

In re Patent No. 6, 878,372 :
Issued: April 12, 2005 :
Application No.: 10/277,478 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No: **06132/067002** :

This is a regarding the petition under 37 CFR 1.28(c) filed October 19, 2006.

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

Payment of the deficiency of the issue fee previously remitted to the USPTO is of record as of October 19, 2006.

The application file will be directed to the Files Repository.

Telephone inquiries regarding 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
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Alexandria, VA 22313-1450
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TESSERA
LERNER DAVID et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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AUG 20 2007

OFFICE OF PETITIONS

In re Patent No. 7,033,664 :
Issue Date: April 25, 2006 :
Application No. 10/277,498 : NOTICE
Filed: October 22, 2002 :
Patentee(s): Gil Zilber, et. al. :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed August 18, 2006. 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.** 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Bala Dutt	: DECISION ON REQUEST FOR
Patent Number	: 7346902	: RECALCULATION of PATENT
Issue Date	: 03/18/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/277,504	: OF WYETH
Filed	: 10/22/2002	:
		:

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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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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AUG 11 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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

Paper No. 3

In re application of
Matthew Scott Malden et al
Application No.10/277,549
Filed: October 21, 2002
For: METHOD AND SYSTEM FOR PROCESSING INTELLIGENCE INFORMATION

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is in response to the petition filed on October 21, 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 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.

Applicants' declaration explains that the present invention contributes to countering terrorism by delivering information useful in preventing future terrorist threats, responding to unfolding terrorist threats and investigating those who may have contributed to past terrorist threats. Further, the present invention allows for authorities to be automatically notified when automatic analysis of intelligence information indicates a terrorist threat. 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 application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121
(703) 605-0586 (fax)

RAR/ekn 08/5/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/11/06

TO SPE OF : ART UNIT **2133**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/277555** Patent No.: **7010734**

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: Change does not constitute the addition of new matter or require reexamination.

Please sign here

Thanks

David

JACQUES LOUIS-JACQUES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2117
Art Unit

PTOL-30

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,010,734

APPLICATION NO.: 10/277,555

ISSUE DATE : March 7, 2006

INVENTOR(S) : Upendra S. Brahme and Donald E. Fox

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

Column 3
At line 23, after "of the", change "second" to read -- third --.

Column 6
At line 34, after "sub-set", change "2" to read -- 3 --.

Column 10
At line 5, after "of the", change "second" to read -- third --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

GUNNISON, McKAY & HODGSON, L.L.P.
1900 Garden Road, Suite 220
Monterey, CA 93940

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

MAR - 6 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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JAN 2 8 2003

OFFICE OF PETITIONS

In re Application of
Tegeler, et al
Application No. 10/277,556
Filed: October 18. 2002
Attorney Docket No. 32993-71477
For: FLUID TREATMENT DEVICE

: DECISION GRANTING
: PETITION

This is a decision on the petition filed December 2, 2002 (certificate of mailing date November 27, 2002), under 37 CFR 1.10(d) requesting that the above-identified application be accorded a filing date of October 18, 2002, rather than the presently accorded filing date of October 21, 2002.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on October 18, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of an "United States Postal Service Pick up Service Statement Express Mail Global Express Guaranteed, Priority Mail, or Parcel Post" showing that a package bearing Express Mail label No. EL894011032US was picked up on October 18, 2002. The same Express Mail label number is found on the original application papers.

Paragraph (d) of 37 CFR 1.10 states that:

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

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled

pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed December 2, 2002, is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to October 18, 2002.

Thereafter, the application will be forwarded to Technology Center Art Unit 1743 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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SEP 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON PETITION
Application No. 10/277,562	:	TO WITHDRAW
Filed: October 21, 2002	:	FROM RECORD
Attorney Docket No. 0492611-0458/MIT-9441	:	

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 12, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Choate, Hall & Stewart LLP does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

There is an outstanding Non-Final Office action mailed March 6, 2009, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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
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OCT 15 2003

Paper No. 4

In re Application of	:	
Mahjoob Osmann Mohammad	:	
Serial No. 10/277,599	:	DECISION ON PETITION
Filed: October 21, 2002	:	TO MAKE SPECIAL
For: COSMETIC BOOTIE	:	

Applicant's petition, filed via facsimile on September 18, 2003, requests special status for advanced examination out of turn under the Accelerated Examination Program, MPEP 708.02(VIII). The petition is DISMISSED.

A petition under MPEP 708.02(VIII) requires (1) a petition and the fee therefor, (2) the presentation of all claims directed to a single invention or a statement that applicant will, without traverse, elect a single invention for prosecution if required to do so, (3) a statement that a pre-examination search was made, specifying whether the search was made by the inventor, the attorney, if any, a professional searcher, etc., and listing the field of search by class and subclass, (4) a copy of each reference deemed closely relevant to the claimed subject matter, and (5) a detailed discussion of the documents in which it is pointed out with particularity how the claimed subject matter distinguishes over the references. Applicant's petition lacks item (4) above -- only the first page of each cited reference was included.

Applicant may renew the petition by supplying the required items listed above.

E. Rollins-Cross, Director
Technology Center 3700

Mr. Gene Scott
Patent Law and Venture Group
3140 Red Hill Avenue, Suite 150
Costa Mesa, CA 92626-3440

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MARK A LAUER
6601 KOLL CENTER PARKWAY
SUITE 245
PLEASANTON CA 94566

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Boucher, et al.	:	
Application No. 10/277,604	:	DECISION ON PETITION
Filed: October 18, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. ALA-008B	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 14, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application no. 60/061,809 set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(e) and 37

CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. 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 2157 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/277,604	10/18/2002	2157	1358	ALA-008B	45	5

CONFIRMATION NO. 7644

CORRECTED FILING RECEIPT

24501
MARK A LAUER
6601 KOLL CENTER PARKWAY
SUITE 245
PLEASANTON, CA 94566

Date Mailed: 06/17/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Laurence B. Boucher, Saratoga, CA;
Stephen E. J. Blightman, San Jose, CA;
Peter K. Craft, San Francisco, CA;
David A. Higgen, Saratoga, CA;
Clive M. Philbrick, San Jose, CA;
Daryl D. Starr, Milpitas, CA;

Power of Attorney:
Thomas Wallace--34748
Mark Lauer--36578

Domestic Priority data as claimed by applicant

This application is a CON of 10/005,536 11/07/2001 PAT 7,167,926
which is a CON of 09/384,792 08/27/1999 PAT 6,434,620
which claims benefit of 60/098,296 08/27/1998
and is a CIP of 09/067,544 04/27/1998 PAT 6,226,680
which claims benefit of 60/061,809 10/14/1997

Foreign Applications

If Required, Foreign Filing License Granted: 11/27/2002
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/277,604**
Projected Publication Date: Not Applicable
Non-Publication Request: No

Early Publication Request: No
Title

Parsing a packet header

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Clinton M. Knudsen et al :
Application No. 10/277,606 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No. 2316.1744US01 :

This is a decision on the petition, filed January 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 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 3634 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

[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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JAN 14 2008

LAHIVE & COCKFIELD, LLP/ATHERSYS
ONE POST OFFICE SQAURE
BOSTON MA 02109-2127

In re Application of:
Harrington et al.
Serial No.: 10/277,612
Filed: October 22, 2002
Attorney Docket No.: ATX-004CP

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed on November 5, 2007, requesting withdrawal of finality of the Office action of October 9, 2007.

BACKGROUND

More recently, the examiner mailed a non-final Office action on August 9, 2006 setting a three month shortened statutory period for reply. In this Office action, claims 3, 6-8, 11, 12, 18, 21, 25, 27, 33-36, 44, 45, 70, 71, 88, 89, 166, 167, and 170 were pending and claims 3, 6-8, 11, 12, 18, 21, 25, 27, 33-36, 44, 45, 70, 71, 88, 89, 166, 167, and 170 were rejected. The examiner rejected:
1) claims 3, 6, 8, 11, 12, 18, 21, 25, 27, 33-36, 44, 88, 89, 166, 167, and 170 were rejected under 35 USC 112, second paragraph, as being indefinite,
2) claims 3, 6-8, 11-12, 18, 21, 25, 27, 33-36, 44-45, 70-71, 88-89, 166-167 and 170 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement,
3) claims 3, 6-8, 11-12, 18, 21, 25, 27, 33-36, 44-45, 70-71, 88-89, 166-167 and 170 were rejected under 35 USC 112, first paragraph, for non-enablement,
4) claims 3, 6, 12, 34-35, 88 and 170 were rejected under 35 USC 102 (b) as being anticipated by Stark et al.,
5) claims 3, 6, and 12 are rejected under 35 USC 102 (e) as being anticipated by Zambrowicz et al.,
6) claims 3, 6-8, 18, 21, 25, 27, 33-36, 44, 70-71 and 166-167 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting.

In response to the non-final Office action of August 9, 2006, Applicants filed a response on February 9, 2007 which included remarks, amendments to the claims, and cancellation of claims 1-2, 4-5, 9-10, 12-17, 19-20, 22-24, 26, 28-32, 37-43, 46-165 and 168-170.

The examiner mailed a final Office action on May 3, 2007 setting a three month shortened statutory period for reply. In this Office action, claims 3, 6-8, 11, 18, 21, 25, 27, 33-36, 44, 45, 166 and 167 were pending and claims 3, 6-8, 11, 18, 21, 25, 27, 33-36, 44, 45, 166 and 167 were rejected. In this final Office action, the following grounds of rejection were set forth:
1) claims 3, 6-8, 11, 18, 21, 25, 27, 33-36, 44, 88, 89, 166 and 167 were rejected under 35 USC 112, second paragraph, as being indefinite,
2) claims 3, 6-8, 11, 18, 21, 25, 27, 33-36, 44-45 and 166-167 were rejected under 35 USC 112, first paragraph, for non-enablement,
3) claims 3, 6-8, 18, 21, 25, 27, 33-36, 44, 70-71 and 166-167 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 180-182 of copending application 10/342,896.

In response thereto, applicants filed this petition under 37 CFR § 1.181 on November 5, 2007, requesting withdrawal of finality of the Office action of May 3, 2007.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants believe that the finality of the Office action of May 3, 2007 is improper because a number of the new rejections were neither necessitated by applicants' amendment of the claims nor based on information submitted in an information disclosure statement. In their petition, applicants raise three points, the first point being that the phrase "physicochemical mutagenesis" was not previously rejected as indefinite so the newly added phrase "physicochemical mutagen" should not be; the second point being that the phrase "insertional mutagenesis" was not previously rejected as indefinite so the newly added phrase "Polynucleotide insertional mutagen" should not be as well; and the last point being that on page 10 of the final Office Action, the rejection of the claims under 35 USC 112, first paragraph, on the ground that that steps for solving the problem (identifying the mutated cell) are not recited in the claims, is a new rejection that was not necessitated by Applicants' amendment filed on February 9, 2007.

Regarding the first two points, clearly the claims have been amended to introduce new limitations, and though a 'process' was claimed in the claims of June 1, 2006, limitations that the method was performed with a specific type of agent was not a limiting factor in the first claim set of June 1, 2006. Therefore, at that time, the process could have been done with any type of agent. However, new limitations were added to the claims on February 9, 2007 requiring specific consideration of these claims, and as a result, new rejections were also necessary to properly treat these claims. With respect to applicants' third point, nothing is seen on page 10 that is related to this as the 35 USC 112, first paragraph, rejection set forth by the examiner relates to the claims failing to provide enablement for any method comprising subjecting a cell to

physicochemical mutagenesis and insertional mutagenesis such that one allele of said gene is physicochemically mutated and a second allele of said gene is insertionally mutated.

It is thus decided that the new ground of rejections made by the examiner in the final Office action of May 3, 2007 were necessitated by applicants' amendments to the claims on February 9, 2007 and hence, the final Office action was not premature.

Applicants' arguments are not persuasive that the final Office action issued May 3, 2007 was premature and the finality of the Office action will be not withdrawn.

DECISION

The petition is **DENIED**.

This application will be forwarded to the examiner for consideration of the amendment after final of November 5, 2007.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Christopher Low
Acting Director, Technology Center 1600

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WEBB ZIESENHEIM LOGSDON
ORKIN & HANSON, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219-1818

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NOV 19 2004

OFFICE OF PETITIONS

In re Application of :
Tsunetaro Ito :
Application No. 10/277,621 : NOTICE
Filed: October 22, 2002 :
Attorney Docket No. 2197-020865

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 Irvin Dingle at (571) 272-3210.

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

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Paper No.

Kilpatrick Stockton LLP- Adobe Systems, Inc. 58083
Kilpatrick Stockton LLP
1100 Peachtree Street
Atlanta GA 30309-4530

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Patent No. 7,624,397	:	DECISION ON REQUEST
Washburn et al.	:	FOR
Issue Date: November 24, 2009	:	RECONSIDERATION OF
Application No. 10/277,625	:	PATENT TERM ADJUSTMENT
Filed: October 22, 2002	:	and
Atty Docket No. 58083/374894 (M044)	:	NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 22, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, seven hundred and seventy-seven (1777) 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, seven hundred and seventy-four (1774) days is **GRANTED to the extent indicated herein.**

Petitioner has indicated that this patent is not subject to a terminal disclaimer.[1]

Petitioner has calculated the period of B-delay to be 1493 days,[2] when the correct period of time is 1494 days.

The time taken up by the notice of appeal is excluded from the period of B-delay. A first notice of appeal was filed on August 22, 2006, and a non-final Office action was subsequently mailed

[1] Petition, page 4, paragraph 7.
[2] Id. at 2, paragraph 4.

on January 19, 2007. The 151 (not 150)[3] days of the over three year period consumed by appellate review, beginning on August 22, 2006 and ending on January 19, 2007, is not included in the B delay. A second notice of appeal was filed on March 14, 2008, and a non-final Office action was subsequently mailed on June 25, 2008. The 104 (not 103)[4] days of the over three year period consumed by appellate review, beginning on March 14, 2008 and ending on June 25, 2008, is not included in the B delay. A third notice of appeal was filed on August 11, 2008, and a non-final Office action was subsequently mailed on December 23, 2008. The 135 (not 134)[5] days of the over three year period consumed by appellate review, beginning on August 11, 2008 and ending on December 23, 2008, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii). Thus, 390 (151 + 104 + 135) and not 150 + 103 + 134 = 387[6] days are excluded.

As such, the patent term adjustment is increased by 1774 (724 examination delay plus 1494 B delay minus 0 applicant delay minus (151 + 104 + 135 = 390) days of exclusion minus 54 overlap) days.

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

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, seven hundred and seventy-four (1774) days**.

---

[3] Id. at 3, paragraph 6(i).
[4] Id. at 3, paragraph 6(ii).
[5] Id. at 3, paragraph 6(iii).
[6] Id. at 4, paragraph 6(iii).

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,624,397 B1

DATED : **November 24, 2009** **DRAFT**

INVENTOR(S) : Washburn 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 1494 days

Delete the phrase "by 1494 days" and insert – by 1774 days--

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IPVENTURE, INC.
5150 EL CAMINO REAL
SUITE A-22
LOS ALTOS, CA 94022

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DEC 2 6 2006

OFFICE OF PETITIONS

In re Application of :
C. Douglass Thomas et al :
Application No. 10/277,630 : NOTICE
Filed: October 22, 2002 :
Attorney Docket No. CDTP001D

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

PTO/SB/27 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR EXPEDITED EXAMINATION OF A DESIGN APPLICATION (37 CFR 1.155)

Application Number	29/277,642
Filing Date	March 5, 2007
First Named Inventor	Leo S. Chang
Title	Portion Of A Shoe Upper
Atty Docket Number	015127.00910

ADDRESS TO:
MAIL STOP EXPEDITED DESIGN
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Approved 3/14/07
Jacqueline M. Stone, Director
Technology Center 1700/2900

This is a request for expedited examination of a design application under 37 CFR 1.155.

NOTE: If the Request made by this form accompanies original application papers, include form PTO/SB/18 "Design Patent Application Transmittal" or its equivalent.

A preexamination search was conducted. The field of search was:

D2/896, 902, 907, 908, 911, 943, 944, 945, 946, 969, 970, 972, 973, 974

Related applications: ____

If not previously filed for the above-identified application, the following items required by 37 CFR 1.155 are enclosed:
Formal drawings (see 37 CFR 1.84).
The fee set forth in 37 CFR 1.17(k).
An information disclosure statement in compliance with 37 CFR 1.98.

/David R. Gerk/ — Signature
2007-03-05 — Date

/David R. Gerk/ — Typed or printed name
56,901 — Registration Number, if applicable

202-824-3000 — Telephone Number

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 1.155. 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 6 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: Mail Stop Expedited Design, 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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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 04/20/2010

Applicant	: Alan M. Lambowitz	: DECISION ON REQUEST FOR
Patent Number	: 7592161	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/277,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **820** 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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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 05/17/2010

Applicant : Alan M. Lambowitz
Patent Number : 7592161
Issue Date : 09/22/2009
Application No: 10/277,643
Filed : 10/22/2002

: 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 **926** 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).

18 MAR 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

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

Martin G. Belisario
AKIN, GUMP, STRAUSS, HAUER &
FELD, L.L.P.
One Commerce Square
2005 Market Street- Suite 2200
Philadelphia, PA 19103

In re Application of	:	
Shaun Rymer	:	DECISION ON
Application No.: 10/277,651	:	
Filing Date: 21 October 2002	:	PETITION UNDER
Attorney's Docket No.: 10660-114US	:	
For: ELECTRICAL DEVICE FOR EVAPORATING A VOLATILE LIQUID	:	37 CFR 1.137(b)

This is in response to "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 21October 2002.

Applicants' petition under 37 CFR 1.137(b) filed 21 October 2002 to revive international application PCT/GB01/00953 abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as to the National stage in the United States of America as follows:

On 27 September 2001, a Demand electing the United States was filed in this international application. This international application PCT/GB01/00953 became abandoned as to the United States of America at midnight on 06 September 2002 for failure to pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c)). The statement, "the entire delay in filing such a U.S. National Phase application or such a U.S. continuation application from the due date for such filing until the filing of a grantable petition, namely this petition, under 37 CFR 1.137(b) was unintentional"complies with 37 CFR 1.137(b).

International application PCT/GB01/00953 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/277,651.

This application is being forward to Office Initial Patent Examination(OIPE) for continued processing.

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/277,651	10/22/2002	3751	870	10660-114US (10498P1)	3	11	2

CONFIRMATION NO. 6069

UPDATED FILING RECEIPT

OC000000014643369

000570
AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

Date Mailed: 12/01/2004

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

Applicant(s)

Shaun Rymer, East Yorkshire, UNITED KINGDOM;

Assignment For Published Patent Application

Reckitt Benckiser (UK) Limited

Power of Attorney: The patent practitioners associated with Customer Number **000570**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB01/00953 03/06/2001

Foreign Applications

UNITED KINGDOM 0005222.5 03/06/2000

If Required, Foreign Filing License Granted: 05/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/277,651

Projected Publication Date: 03/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Electrical device for evaporating volatile liquid

Preliminary Class

141

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Robert F. Frijouf
Frijouf, Rust & Pyle, P.A.
201 East Davis Boulevard
Tampa, FL 33606

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NOV 26 2007

OFFICE OF PETITIONS

In re Application of :
M. Flowers, G. Flowers, Jarema, Dwyer, Volpe, : LETTER AND
He, and Hopely :
Application No. 10/277,664 : NOTICE OF ABANDONMENT
Filed: October 23, 2002 :
Attorney Docket No. 02-0030 :

Reference is made to the petition under 37 CFR 1.47(a) filed October 17, 2007, in the above-cited application.

Petitioner is advised that no decision can be rendered on the petition under 37 CFR 1.47(a) because the application is **abandoned.**

The record reflects that a Notice to File Missing Parts of Non-provisional Application was mailed on December 2, 2002, requiring a properly executed oath or declaration and payment of a surcharge for the late filing of the same. The notice allowed a period for reply of two-months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). On March 31, 2003, applicant filed a request for an extension of time within the second month and a response to the Notice to File Missing Parts of Non-Provisional Application that did not include a properly executed oath or declaration. On August 13, 2003, a non-final Office action was mailed requiring among, among other things, a properly executed oath or declaration. A review of the application file history reveals that every Office action mailed thereafter made the same requirement. There is no evidence that applicant ever filed either a properly executed declaration or a petition under 37 CFR 1.47 until the instant petition filed October 17, 2007. This, of course, is four years after the initial requirement for the properly executed declaration was made in the Notice to File Missing Parts of Non-provisional Application. The application was abandoned on April 3, 2003, for failure to file a proper and timely response to the Notice to File Missing Parts of Non-provisional Application.

The petition under 37 CFR 1.47(a) will not be considered until the application is revived pursuant to 37 CFR 1.137.

Further correspondence regarding this matter may be addressed to the following:

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

By facsimile: (571) 273-8300

Questions regarding this communication 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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MAR 14 2008

OFFICE OF PETITIONS

Robert F. Frijouf
Frijouf, Rust & Pyle, P.A.
201 East Davis Boulevard
Tampa FL 33606

In re Application of
M. Flowers, G. Flowers, Jarema, Dwyer, Volpe
He, and Hopley
Application No. 10/277,664
Filed: October 23, 2002
Attorney Docket No. 02-0030

: DECISION ON PETITION UNDER
: 37 CFR 1.137(a) and 1.137(b)
:AND DECISION ACCORDING
:STATUS UNDER 37 CFR 1.47(a)
:

This is a decision on the petitions under 37 CFR 1.137(a) and 1.137(b) to revive the above-identified application filed February 1, 2008, and the petition under 37 CFR 1.47(a), filed October 17, 2007.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

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

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

The record reflects that a Notice to File Missing Parts of Non-provisional Application was mailed on December 2, 2002, requiring a properly executed oath or declaration and payment of a surcharge for the late filing of the same. The notice allowed a period for reply of two-months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). On March 31, 2003, applicant filed a request for an extension of time within the second month and a response to the Notice to File Missing Parts of Non-Provisional Application that did not include a properly executed oath or declaration. On August 13, 2003, a non-final Office action was mailed requiring among, among other things, a properly executed oath or declaration. A review of the application file history reveals that every Office action mailed thereafter made the same requirement. There is no evidence that applicant ever filed either a properly executed declaration or a petition under 37 CFR 1.47 until the instant petition filed October 17, 2007. This, of course, is four years after the initial requirement for the properly executed declaration was made in the Notice to File Missing Parts of Non-provisional Application. The application was abandoned on April 3, 2003, for failure to file a proper and timely response to the Notice to File Missing Parts of Non-provisional Application. A petition under 37 CFR 1.47(a) was filed October 17, 2007. The petition was held in abeyance until the application is revived pursuant to 37 CFR 1.137.

TREATMENT UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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]

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]

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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.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that petitioner was unaware of the need to file a petition under 37 CFR 1.47(a) for the non-signing inventor in response to the Notice to File Missing Parts of Nonprovisional Application.

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.

Section 711.03(c) of the Manual of Patent Examining Procedure provides, in pertinent part, that "[d]elay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay." See *Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891). Accordingly, petitioner's lack of knowledge of the need to file a petition under 37 CFR 1.47(a) to have the application accorded status under that rule so that the application can be prosecuted without the non-signing inventor is not a cause for unavoidable delay. The petition under 37 CFR 1.137(a) is dismissed, accordingly.

Deposit account 06-2120 will be charged $255.00 for the instant petition fee.

TREATMENT UNDER 37 CFR 1.137(b)

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

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office

Deposit account 06-2120 will be charged $770.00 for the instant petition fee.

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[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.

TREATMENT UNDER 37 CFR 1.47(a)

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.

The above-cited application was filed on October 23, 2002, without an executed oath or declaration. On December 2, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, indicating that a proper oath or declaration was required and a surcharge for the late filing of the same. The notice allowed an extendable period for response of the two months from its mailing date. The instant petition was filed on October 17, 2007. In the instant petition, petitioner maintains that inventor He is refuses to join the prosecution of the above-cited application.

Petitioner has shown that inventor He is unavailable to join the prosecution 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Deposit account 06-2120 will be charged $200.00 for the petition fee.

The application file is being directed to Technology Center Group Art Unit 3616 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
ZHANG, Wentao et al. :
Application No. 10/277,666 :
Filed: October 23, 2002 :
Attorney Docket No. **355491-1051(G075D1)** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 04, 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 Antoinette Konski on behalf of all attorneys of record who are associated with customer No. 77977. All attorneys/agents associated with the Customer Number 77977 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 Wentao Zhang at the address indicated below.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **WENTAO ZHANG**
1144 POLYNESIA DRIVE
FOSTER CITY CA 94404

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OFFICE OF PETITIONS

In re Application of
Robert E. Burrell et al.
Application No. 10/277,673
Filed: October 22, 2002
Attorney Docket No. 14072-018001 / W 596

ON PETITION

This is a corrected decision on the petition under 37 CFR 1.182, filed on July 2, 2003, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Robert E. Burrell, Alberta, CANADA
2. John B. Wright, San Antonio, TX
3. Kan Lam, San Antonio, TX
4. Hua Qing Yin, Alberta, CANADA
5. Anthony G. Naylor, Alberta, CANADA
6. Peter H. Moxham, Alberta, CANADA
7. Scott H. Gillis, Concord, MA
8. Paul Schecter, Dover, MA

This application is being forwarded to Technology 1616 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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OFFICE OF PETITIONS

In re Application of :
Kow-Je LING et al. :
Application No. 10/277,677 : DECISION ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. **BHT-3127-43** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 17, 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 15, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 16, 2007.

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

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

This application is being referred to Technology Center AU 1763 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Aimee B. Angel	: DECISION ON REQUEST FOR
Patent Number	: 7645263	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/277,722	: 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 **1178** 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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MITSUBISHI ELECTRIC RESEARCH LABORATORIES, INC.
201 BROADWAY, 8TH FLOOR
CAMBRIDGE, MA 02139

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OFFICE OF PETITIONS

In re Application of :
Richard C. Waters :
Application No. 10/277,758 : DECISION ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. CR-1388 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 2006, to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment.

The petition is **GRANTED.**

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 21, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed September 21, 2005. A Notice of Abandonment was mailed on May 5, 2006.

The Notices mailed on September 21, 2005 were returned to the Office as undeliverable. The reason stated is "no such street." However, the street address to which the Notices were mailed is the correspondence address of record and is the same as the address change noted by EBCC on December 27, 2006, except for the addition of "8th Floor." It appears that the Notices may have been undeliverable because the address did not appear in the window of the envelope. Further, it is noted that other correspondence mailed in this application was properly delivered to the address appearing on the Notices of September 21, 2005. As the Notices were returned and as it is clear that petitioner did not receive these Notices, it would be appropriate here to withdraw the holding of abandonment.

In view of the above, the Notice of Abandonment mailed May 5, 2005 is vacated and the holding of abandonment is withdrawn. This application has been restored to pending status.

As the Notices of September 21, 2005 were returned as undeliverable, a copy of these Notices accompanies this decision on petition. If petitioner desires to have the information normally found thereon printed on the patent, the accompanying blank Part B - Fee(s) Transmittal form should be completed and returned to the Publishing Division within two weeks from the mail date of this decision. The form should be facsimile transmitted to the number found at the top.

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
Petitions Examiner
Office of Petitions

ATTACHMENT: Notices mailed September 21, 2005

IDS —

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 09/21/2005

Mitsubishi Electric Research Laboratories, Inc.
Patent Department
201 Broadway
Cambridge, MA 02139

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SEP 28 2005

EXAMINER	
NGUYEN, JIMMY H	
ART UNIT	PAPER NUMBER
2673	

DATE MAILED: 09/21/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/277,758	10/22/2002	Richard C. Waters		6521

TITLE OF INVENTION: AUTOMATIC INDICATOR SYSTEM AND METHOD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	12/21/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 09/21/2005

Mitsubishi Electric Research Laboratories, Inc.
Patent Department
201 Broadway
Cambridge, MA 02139

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/277,758	10/22/2002	Richard C. Waters		6521

TITLE OF INVENTION: AUTOMATIC INDICATOR SYSTEM AND METHOD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	12/21/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
NGUYEN, JIMMY H	2673	345-158000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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 to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. 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, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/277,758	10/22/2002	Richard C. Waters		6521

7590 09/21/2005

Mitsubishi Electric Research Laboratories, Inc.
Patent Department
201 Broadway
Cambridge, MA 02139

EXAMINER	
NGUYEN, JIMMY H	

ART UNIT	PAPER NUMBER
2673	

DATE MAILED: 09/21/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 439 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 439 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)	
	10/277,758	WATERS, RICHARD C.	
	Examiner	Art Unit	
	Jimmy H. Nguyen	2673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *the amendment filed 09/02/2005 and the telephone interview on 09/14/2005*.

2. ☒ The allowed claim(s) is/are *1, 2 and 4-7 renumbered as 1-6*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Andrew J. Curtin on September 14, 2005.

2. The application has been amended as follows:

In the claims:

Claim 7 (renumbered as claim 6),

line 4, delete "and"; and

line 6, replace "representation." with -- representation; and outputting information associated with the matching representation in audio form. --.

Cancel claim 8.

3. Claims 1, 2 and 4-7 are allowed and renumbered as claims 1-6. See the examiner's statement of reasons for allowance in the Office Action dated 08/19/2005.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy H. Nguyen whose telephone number is 571-272-7675. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached at 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHN
September 15, 2005

Jimmy H. Nguyen
Primary Examiner
Art Unit: 2673

Examiner-Initiated Interview Summary	Application No.	Applicant(s)	
	10/277,758	WATERS, RICHARD C.	
	Examiner	Art Unit	
	Jimmy H. Nguyen	2673	

All Participants:

(1) *Jimmy H. Nguyen*.

(2) *Andrew J. Curtin (applicant's rep.)*.

Status of Application: *pending*

(3) _____.

(4) _____.

Date of Interview: *14 September 2005*

Time: *2:15 p.m.*

Type of Interview:
- ☒ Telephonic
- ☐ Video Conference
- ☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☒ No
If Yes, provide a brief description:

Part I.

Rejection(s) discussed:

Claims discussed:
7 and 8

Prior art documents discussed:

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:
Applicant's representative agreed to incorporate claim 8 into claim 7 in order to place the application in condition for allowance. The amendment to claim 7 and the cancellation of claim 8 are provided in the attached Examiner's Amendment.

Part III.

☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

(Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)

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CAMPBELL STEPHENSON ASCOLESE LLP
Building 4, Suite 201
4807 Spicewood Springs
Austin TX 78759

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of :
OCEPEK, et al. :
Application No. 10/277,762 :
Filed: October 22, 2002 :
Attorney Docket No. MIR0010US :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 2, 2006.

The request is **APPROVED**.

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

The request was signed by D'Ann Naylor Rifai on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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 37 CFR statement filed on October 27, 2005 is invalid because it does not include a complete chain of title from the original owner to the assignee.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Steven R. Ocepek**
175 Lakeside Avenue, #2
Pacifica, CA 94044

cc: **Koestner Bertani LLP**
18662 MacArthur Blvd, Suite 400
Irvine, CA 92612

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DEC 13 2007

TECHNOLOGY CENTER 2100

Steven R. Ocepek
175 Lakeside Avenue, #2
Pacifica, CA 94044

In re Application of:
OCEPEK et al.
Application No. 10/277,762
Filed: October 22, 2002
For: PEER CONNECTED DEVICE FOR PROTECTING ACCESS TO LOCAL AREA NETWORKS

DECISION ON PETITION

This is a decision on the petition, filed on 05 June 2007, to waive 3-month extension fee based on failure to receive an Office Action.

The petition is **DENIED**.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> 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. See Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not Received, 1156 O.G. 53 (November 16, 1993).

In support of the petition, petitioner submitted that (1) in May 2006, applicant's former attorneys filed a petition to withdraw from representation and requested the correspondent address to be changed to the address associated with Koestner Bertani LLP's customer number 32794; (2) request to change the power attorney to Koestner Bertani LLP for all Mirage Networks applications transferred to Koestner Bertani LLP were filed on August 28, 2006; and (3) the Office Action dated December 5, 2006 was mailed to the **former home address** of the first inventor, Steven Ocepek and Mr. Ocepek had not lived at his former address for more than a year before December 2006. The petitioner further submitted that copies of "Auto-Reply

Facsimile Transmission Receipt dated August 28, 2006 and corresponding New Power of Attorney forms attached hereto".

A review of the application, it reveals that (1) a decision on the request to withdraw from representation and to change the correspondent address was rendered on October 10, 2006 and copies of the decision were mailed to each of the applicant's former attorneys, the first named inventor (Mr. Steven R. Ocepek) and the proposed new applicant's attorneys; (2) the request to change the power attorney to Koestner Bertani LLP filed on August 28, 2006 was not of record; and (3) the Office Action dated December 5, 2006 was correctly mailed to the first named inventor, Steven R. Ocepek, as stated in the Declaration filed on October 22, 2002. It further reveals that the mentioned copies of Auto-Reply Facsimile Transmission Receipt dated August 28, 2006 and corresponding New Power of Attorney forms were not received and not of record.

It is noted that the decision mailed October 10, 2006 specifically stated (1) the instant application has no attorney of record – paragraph 4 "The request was signed by ... Applicant is reminded that there is no attorney of record at this time; (2) the request to change the correspondence of record to Koestner Bertani LLP's address was not accepted and all future communications from the Office will be directed to the first named inventor Steven Ocepek – paragraph 5 "The request to change the correspondence ... the first named signing inventor at the first copied address below until otherwise properly notified by the applicant; (3) a Statement under 37 CFR 3.73(b) filed on October 27, 2005 was invalid – paragraph 6 "In order to request or take action in a patent matter ... a complete chain of title from the original owner to the assignee".

In reviewing of the petition and the decision mailed October 10, 2006, it appears that applicant and/or applicant's new representative failed to follow the guidelines set forth in MPEP § 601.03 which set forth the requirement for promptly notifying the U.S. Patent and Trademark Office of any change of address for correspondence and failed to further follow up with a corrected action after receiving the decision mailed on October 10, 2006. Thus, the Office Action dated December 5, 2006 was correctly mailed to the address of record at the time.

Accordingly, the petition is **DENIED**. The waiver of the 3-month extension fee to respond to the Office Action dated December 5, 2006 is **not granted**.

Note that the request to change the correspondence address filed March 06, 2007 will be not accepted because the instant application has no attorney of record (see the decision mailed October 10, 2006).

If the petitioner desires further review of this decision, he/she should file a Request for Reconsideration within two (2) months of the mailing date of this decision or may wish to consider filing a petition to review the T.C. Director's decision on this petition.

The required 3-month extension fee was received and processed on June 5, 2007. Thus, the application is being forwarded to the examiner of record to consider the amendment filed on June 05, 2007.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Jim Dwyer, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

cc: Mary Jo Bertani
KOESTNER BERTANI LLP
18662 MacArthur Blvd, Suite 400
Irvine, CA 92612

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D'ANN NAYLOR RIFAI
CAMPBELL STEPHENSON ASCOLESE LLP
BUILDING 4, SUITE 201
4807 SPICEWOOD SPRINGS
AUSTIN, TX 78759

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APR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Ocepek et al.	:	DECISION ON PETITION
Application No. 10/277,765	:	TO WITHDRAW
Filed: October 22, 2002	:	FROM RECORD
Attorney Docket No. 1073.P009 US	:	

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 2, 2006.

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

A review of the file record indicates that on August 23, 2006 the power of attorney to Campbell Stephenson Ascolese LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Koestner Bertani LLP
2192 Martin St. Suite 150
Irvine CA 92612

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DIW Aug-05

JOSE ALPHONSO CORREA
4217 EMPIRE WAY
GREENACRES FL 33463

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OFFICE OF PETITIONS

In re Application of	:	
Jose Alphonso Correa	:	
Application No. 10/277,780	:	ON PETITION
Filed: 23 October, 2002	:	
For: CD& DVD MEDIUM OUTTER PROTECTOR RING	:	

This is a decision on the petition filed on 17 June, 2005, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

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 to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The application became abandoned on 18 June, 2004, for failure to timely file a response to the non-final Office action mailed on 17 March, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 9 September, 2004.

Petitioner asserts unavoidable delay in that the Notice mailed on 17 March, 2004, was never received. Petitioner states that he changed addresses in February and June, 2004, but completed mail forwarding forms at the U.S. Post Office after each move.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the Office action mailed on 17 March, 2004, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[2] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication 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).

A review of the record reveals that the non-final Office action was properly mailed to the then-current address of record on 17 March, 2004. On 22 February, 2005, petitioner filed a letter indicating that his correspondence address had changed in February and again in June of 2004. As such, the showing of record is that the USPTO properly mailed the Office action to the address provided by petitioner, but that the address provided by petitioner was no longer valid.

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[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing of record is inadequate to withdraw the holding of abandonment. Specifically, petitioner has stated that the correspondence address was incorrect, Petitioner must provide evidence that either (a) petitioner was receiving mail at the correspondence address of record at the time the Notices were mailed or (b) petitioner notified the PTO of a change in the correspondence address prior to the mailing of the Notices.

MPEP 601.03 requires an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) to promptly notify the Patent and Trademark Office of a change in the correspondence address. The required notification need take no particular form, but must be provided in a manner calling attention to the fact that a change of address is being made. Petitioner failed to timely inform the Office of the address change. Petitioner should note that merely filing a change of address form with the USPS is not equivalent to filing a change of correspondence address with the Office, and does not satisfy the requirements of MPEP 601.03. In this case, petitioner did not file a change of correspondence address with the Office for over one year after petitioner had first relocated.

As such, the showing is that there was no irregularity in the mailing of the Office action mailed on either 17 March, 2004. Rather, petitioner failed to provide the Office with a current correspondence address. As such, the failure to receive the Office action is the fault of petitioner and not that of the Office. As such, the petition to withdraw the holding of abandonment is dismissed.

If petitioner has evidence that he attempted to provide the correct correspondence address to the Office prior to the mailing of the Office action mailed on 17 March, 2004, petitioner may wish to consider submitting said evidence with a renewed petition.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

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).[5] 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

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[3] 35 U.S.C. § 133.

[4] 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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

otherwise reliable employees, the response is not timely received in the Office.[6]

As stated above, the showing of record is that the failure to receive the Office action mailed on 17 March, 2004, occurred because petitioner failed to timely submit a change of correspondence address. A delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the U.S. Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay.[7]

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

REQUIRED REPLY

Petitioner has not provided the reply required by 37 CFR 1.137(a)(1) in that petitioner has not submitted a reply to the non-final Office action mailed on 17 March, 2004. A copy is enclosed herewith for petitioner's use in preparing a reply. Any renewed petition should be accompanied by a proper reply to the Office action mailed on 17 March, 2004.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay

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[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[7] See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $750.00 for a small entity.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Office action mailed on 17 March, 2004
Form PTO/SB/64
Privacy Act Statement

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.
10/277,794	10/22/2002	Oleg Shikhman	INE0062US2	6289

23413 7590 03/15/2010

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
TRUONG, KEVIN THAO	
ART UNIT	PAPER NUMBER
3734	

NOTIFICATION DATE	DELIVERY MODE
03/15/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
SHIKHMAN, OLEG et al
Serial No. 10/277,794
Filed: Oct. 22, 2002
Docket: ine0062us2
Title: REMOVABLE SLEEVE

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition, filed February 16, 2010, under 37 CFR 1.181, to withdraw the holding of abandonment. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required.

The petition under 37 CFR 1.181 is GRANTED.

The present application was held abandoned for failure to timely file an appeal brief. Notice of abandonment was mailed on January 21, 2010.

A review of the record shows that the applicant timely submitted an appeal brief on February 16, 2010 with five months extension of time fee paid. Therefore, the application is not abandoned. Accordingly, the holding of abandonment is withdrawn.

Any inconvenience or delay caused to applicant is regretted. This application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3734 for consideration of the Appeal Brief filed on February 16, 2010.

Petition is granted.

Donald T. Hajec, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10182005

INTERNATIONAL BUSINESS MACHINES CORPORATION
BLDG. 300-482
2070 ROUTE 52
HOPEWELL JUNCTION NY 12533

Patent Owner

NOV 09 2005

In re U.S. Patent 6,806,584
FUNG et al.
Application No. 10/277,907
Issued: October 19, 2005
Attorney Docket Number: 7669

NOTIFICATION RE. PRIOR ART CITATION

The prior art citation filed August 4, 2005 is an improper citation under 37 C.F.R. § 1.501 and will not be entered into the patent file.

The citation does not contain an explanation of the pertinency and applicability of the art submitted to the patentability of the claims of the patent.

Accordingly, the paper has not been considered and is being returned herewith. See M.P.E.P. § 2205.

This decision will be made of record in the patent file.

Any inquiry regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Enclosure: Paper titled "Citation under 1.501" to patent owner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Garini, et al. :

Application No. 10/277,916

: DECISION ON PETITION

Filed: October 23, 2002

:

Attorney Docket No. 02/23873

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 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 restriction/ election requirement mailed March 2, 2006, which set a shortened period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on April 3, 2006. A Notice of Abandonment was mailed September 11, 2006.

The election filed December 21, 2006, is noted.

The application is being forwarded to Technology Center 1600, GAU 1641 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/10/09

TO SPE OF : ART UNIT 2132- Samson Lemma

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/277,945 Patent No.: 7,401,216---

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Should the change Be made?

RoChaun Johnson
Certificates of Correction Branch
703 756-1572

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: ALL APPROVED

/GILBERTO BARRON JR./
SPE

2432
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of
Bouffard et al.
Application No. 10/277,951
Filed: October 21, 2002
Attorney Docket No. 21402-017CIP

ON PETITION

This decision concerns the July 3, 2003 petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Nine inventors are named in this application which, upon filing, included an unsigned declaration. A "Notice to File Missing Parts of Nonprovisional Application" was mailed on December 10, 2002, giving Applicants an extendable 2-month period to submit a proper oath or declaration. In response, the instant petition was filed along with a request for a 5-month extension of time, a $985 check intended for the extension of time fee, and a $65 check intended for the surcharge for lacking an acceptable oath or declaration upon filing of the application.

The petition encloses a declaration signed by all but one inventor, John L. Herrmann ("Herrmann") ("7/3/03 Declaration"), asserts that Herrmann refused to join in this application, and requests that the available inventors be allowed to file the application on behalf of themselves and Herrmann.

Under 37 CFR 1.47(a), the available inventors may file this application on behalf of themselves as well as Herrmann provided that a *bona fide* attempt has been made to present to Herrmann, for review and signature, a copy of the entire application (specification including claims; drawings), and that the latter refuses to join in this application.[1]

To show that Herrmann has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts concerning the circumstances of the presentation of the application papers to Herrmann at his last known address,[2] and his subsequent refusal.[3]

The petition and the accompanying exhibits indicate that counsel for Assignee mailed Herrmann at his last known address a copy of the entire application on June 17, 2003. The conclusion that

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

2 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

3 *Supra* note 1.

Herrmann refused to join in this application is based on the fact that the package mailed to Herrmann's last known address on June 17, 2003 was "refused" and returned to counsel. However, there is no evidence that an effort was made to verify that Herrmann still resides, and/or is able to receive mail, at that address; or that Herrmann is the one who refused that package. The petition also fails to indicate any search, e.g., through the Internet, for Herrmann to ascertain that he indeed was associated with that address.

In view of the above, the Office concludes that a *bona fide* attempt had not been made to reach or locate Herrmann before it was concluded that he refused to sign the declaration. The petition is thus dismissed. The 7/3/03 Declaration is not accepted.

To prevent abandonment of this application,[4] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[5]

(1) an oath/declaration properly signed by all inventors, including Herrmann;[6]

or

(2) a renewed §1.47(a) petition (no fee) that includes proper statement(s) of facts relied upon to establish that a diligent effort had been made, in vain, to locate Herrmann.[7]

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

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

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

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

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

[6] **A supplemental declaration listing the invention, the application number, all the inventors, and is signed by Herrmann is sufficient.**

[7] The steps taken to locate the whereabouts of Herrmann should be included in the statement of facts, signed by the person with firsthand knowledge of the facts recited therein. MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

Finally, the Office acknowledges receipt with the petition of the $130 petition fee.

The Office notes that a basic filing fee of $740 (other than small entity) was paid on October 21, 2002 for this application. However, the extension-of-time fee and the surcharge for lacking an acceptable oath or declaration upon filing of the application, both submitted with the instant petition, were in small entity amounts. It is not clear whether Assignee is entitled to small entity status. If Assignee is not entitled to small entity status, the fee deficiency associated with the instant petition must be submitted upon receipt of the decision.

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

RC Tang
Petitions Attorney
Office of Petitions

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Paper No. 5

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of
Bouffard et al.
Application No. 10/277,951
Filed: October 21, 2002
Attorney Docket No. 21402-017CIP

ON PETITION

This decision concerns the July 3, 2003 petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Nine inventors are named in this application which, upon filing, included an unsigned declaration. A "Notice to File Missing Parts of Nonprovisional Application" was mailed on December 10, 2002, giving Applicants an extendable 2-month period to submit a proper oath or declaration. In response, the instant petition was filed along with a request for a 5-month extension of time, a $985 check intended for the extension of time fee, and a $65 check intended for the surcharge for lacking an acceptable oath or declaration upon filing of the application.

The petition encloses a declaration signed by all but one inventor, John L. Herrmann ("Herrmann") ("7/3/03 Declaration"), asserts that Herrmann refused to join in this application, and requests that the available inventors be allowed to file the application on behalf of themselves and Herrmann.

Under 37 CFR 1.47(a), the available inventors may file this application on behalf of themselves as well as Herrmann provided that a *bona fide* attempt has been made to present to Herrmann, for review and signature, a copy of the entire application (specification including claims; drawings), and that the latter refuses to join in this application.[1]

To show that Herrmann has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts concerning the circumstances of the presentation of the application papers to Herrmann at his last known address,[2] and his subsequent refusal.[3]

The petition and the accompanying exhibits indicate that counsel for Assignee mailed Herrmann at his last known address a copy of the entire application on June 17, 2003. The conclusion that

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

2 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

3 *Supra* note 1.

Done By
Data Entry
Docket Entry 9/30/03
Docket Cross Off
Previously entered
No Docketing Req
ELDF
Amounts

Herrmann refused to join in this application is based on the fact that the package mailed to Herrmann's last known address on June 17, 2003 was "refused" and returned to counsel. However, there is no evidence that an effort was made to verify that Herrmann still resides, and/or is able to receive mail, at that address; or that Herrmann is the one who refused that package. The petition also fails to indicate any search, e.g., through the Internet, for Herrmann to ascertain that he indeed was associated with that address.

In view of the above, the Office concludes that a *bona fide* attempt had not been made to reach or locate Herrmann before it was concluded that he refused to sign the declaration. The petition is thus dismissed. The 7/3/03 Declaration is not accepted.

To prevent abandonment of this application,[4] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[5]

(1) an oath/declaration properly signed by all inventors, including Herrmann;[6]

or

(2) a renewed §1.47(a) petition (no fee) that includes proper statement(s) of facts relied upon to establish that a diligent effort had been made, in vain, to locate Herrmann.[7]

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

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

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

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

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

[6] **A supplemental declaration listing the invention, the application number, all the inventors, and is signed by Herrmann is sufficient.**

[7] The steps taken to locate the whereabouts of Herrmann should be included in the statement of facts, signed by the person with firsthand knowledge of the facts recited therein. MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

Finally, the Office acknowledges receipt with the petition of the $130 petition fee.

The Office notes that a basic filing fee of $740 (other than small entity) was paid on October 21, 2002 for this application. However, the extension-of-time fee and the surcharge for lacking an acceptable oath or declaration upon filing of the application, both submitted with the instant petition, were in small entity amounts. It is not clear whether Assignee is entitled to small entity status. If Assignee is not entitled to small entity status, the fee deficiency associated with the instant petition must be submitted upon receipt of the decision.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OFFICE OF PETITIONS

In re Application of
Bouffard et al.
Application No. 10/277,951
Filed: October 21, 2002
Attorney Docket No. 21402-017CIP

ON PETITION

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

The petition is **DISMISSED.**

A prior petition under 37 CFR 1.47(a), filed on July 3, 2003, asserted that 1 of the 9 inventors, John L. Hermann, refused to join in this application. In support, the petition was accompanied by a copy of the mailing envelope addressed to John L. Hermann and apparently stamped "REFUSED" "Returned To Sender" by the U.S. Postal Service.

The July 3, 2003 petition was dismissed on July 31, 2003 for failure to prove that John L. Hermann was the one who refused to accept the papers delivered to that particular address by the U.S. Postal Service. Specifically, the Office noted in the decision the lack of evidence of any effort made to verify that John L. Hermann resided at that address when the Certified Mail was delivered (e.g., through telephone inquiries and/or Internet name search).

The instant renewed petition is accompanied by Exhibits A-D, copies of those previously submitted with the July 3, 2003 petition, but does not offer any new evidence and/or argument for supporting the assertion that John L. Hermann is aware of the filing of this application but refuses to join in. The instant renewed petition is thus dismissed.

To prevent abandonment of this application, one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[1]

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

(1) an oath/declaration properly signed by all inventors, including John L. Hermann;[2]

or

(2) a renewed §1.47(a) petition (no fee) that includes proper evidence that a reasonably diligent effort was made, in vain, to reach or locate John L. Hermann.[3]

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

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

by fax:[4] (703) 308-6916
Attn: Office of Petitions

Finally, as stated in the July 31, 2003 decision, a basic filing fee of $740 (other than small entity) was paid on October 21, 2002 for this application. However, the fees submitted with the July 3, 2003 petition were in small entity amounts. There does not appear to be any claim for entitlement to small entity status in the file for this application. Applicants must address this issue in the next submission (options (1) or (2) above) and remit necessary fees.

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

RC Tang
Petitions Attorney
Office of Petitions

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[2] A supplemental declaration listing the invention, the application number, all the inventors, and signed by Herrmann is sufficient.

[3] The steps taken to locate the whereabouts of Herrmann should be included in the statement of facts, signed by the person with firsthand knowledge of the facts recited therein. MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

[4] This facsimile number cannot be used for filing petitions after 12/1/03.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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GIPE JC64
DEC 22 2003
PATENT & TRADEMARK OFFICE

Paper No. 7

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OCT 2 1 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Bouffard et al.
Application No. 10/277,951
Filed: October 21, 2002
Attorney Docket No. 21402-017CIP

12/21/03

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

The petition is **DISMISSED.**

A prior petition under 37 CFR 1.47(a), filed on July 3, 2003, asserted that 1 of the 9 inventors, John L. Hermann, refused to join in this application. In support, the petition was accompanied by a copy of the mailing envelope addressed to John L. Hermann and apparently stamped "REFUSED" "Returned To Sender" by the U.S. Postal Service.

The July 3, 2003 petition was dismissed on July 31, 2003 for failure to prove that John L. Hermann was the one who refused to accept the papers delivered to that particular address by the U.S. Postal Service. Specifically, the Office noted in the decision the lack of evidence of any effort made to verify that John L. Hermann resided at that address when the Certified Mail was delivered (e.g., through telephone inquiries and/or Internet name search).

The instant renewed petition is accompanied by Exhibits A-D, copies of those previously submitted with the July 3, 2003 petition, but does not offer any new evidence and/or argument for supporting the assertion that John L. Hermann is aware of the filing of this application but refuses to join in. The instant renewed petition is thus dismissed.

To prevent abandonment of this application, one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[1]

OCT 28 2003

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OFFICE OF PETITIONS

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

(1) an oath/declaration properly signed by all inventors, including John L. Hermann;[2]

or

(2) a renewed §1.47(a) petition (no fee) that includes proper evidence that a reasonably diligent effort was made, in vain, to reach or locate John L. Hermann.[3]

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

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

by fax:[4] (703) 308-6916
Attn: Office of Petitions

Finally, as stated in the July 31, 2003 decision, a basic filing fee of $740 (other than small entity) was paid on October 21, 2002 for this application. However, the fees submitted with the July 3, 2003 petition were in small entity amounts. There does not appear to be any claim for entitlement to small entity status in the file for this application. Applicants must address this issue in the next submission (options (1) or (2) above) and remit necessary fees.

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

RC Tang
Petitions Attorney
Office of Petitions

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---

[2] A supplemental declaration listing the invention, the application number, all the inventors, and signed by Herrmann is sufficient.

[3] The steps taken to locate the whereabouts of Herrmann should be included in the statement of facts, signed by the person with firsthand knowledge of the facts recited therein. MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

[4] This facsimile number cannot be used for filing petitions after 12/1/03.

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Paper No. 9

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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JAN 12 2004

OFFICE OF PETITIONS

In re Application of :
Bouffard et al. : DECISION ACCORDING
Application No. 10/277,951 : STATUS UNDER
Filed: October 21, 2002 : 37 CFR 1.47(a)
Attorney Docket No. 21402-017CIP :

This decision concerns the December 22, 2003 second renewed petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

The previous petitions under 37 CFR 1.47(a), filed on July 3 and September 5, 2003, were dismissed on June 16, 2003 and October 21, 2003 for lacking sufficient showing that a *bona fide* attempt had been made to reach the non-signing inventor, John L. Hermann, as required by 37 CFR 1.47.

Upon review of the instant renewed petition and the accompaniments, the Office concludes that a reasonably diligent effort has been made, in vain, to reach John L. Hermann in order to secure his signature on the application declaration. The renewed petition is thus granted.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to John L. Hermann at his last known address indicated in the petition:

78 Barnshed Lane
Guilford, CT 06437

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

No fee is owed.

The file is being forwarded to Technology Center 1600 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph W. Berenato, III
Liniak, Berenato & White, LLC
6550 Rock Spring Drive, Suite 240
Bethesda, MD 20817

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NOV 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,849,215 :
Issue Date: February 1, 2005 :
Application No. 10/277,980 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 6313.176 :

This is a decision on the petition filed August 10, 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
Petitions Examiner
Office of Petitions

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/14/05

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 6720804

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.

Henry Randall
Certificates of Correction Branch

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

Correction has been made

SPE

2816
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

JAN -6 2005

In re Application of	:	
Ken Siegel	:	
Serial No. 10/277,994	:	DECISION ON PETITION
Filed: October 23, 2002	:	TO WITHDRAW AS ATTORNEY
For: FLEXIBLE POUCH WITH REINFORCED HANDLE	:	

By papers filed on November 30, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the current correspondence address for this application is:

Mr. Ken Siegel
2N2, Inc.
2110 Artesia Blvd., Suite 217
Redondo Beach, CA 90278

Richard A. Bertsch, Director
Technology Center 3700

Adesh Bhargava
Dykema Gossett, PLLC
Franklin Square, 3rd Floor West
1300 I Street, NW
Washington, DC 20005

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

Foley & Lardner
P.O. Box 80278
San Diego, CA 92138-0278

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JAN 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Tingmin Wang, et. al. :
Application No. 10/277,998 : DECISION GRANTING PETITION
Filed: October 21, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. MEDIN1440-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 21, 2003, 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 June 17, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 22, 2004, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Andrea Smith at (703) 308-6711.

This application is being forwarded to Technology Center Art Unit 1614 for examination in due course.

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

Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Paper No. 6

JOHN MOETTELI
BUGNION S.A.
CASE POSTALE 375
GENEVA, 1211-GENEVA 12
SWITZERLAND

AIRMAIL

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OFFICE OF PETITIONS

In re Application of :
Serge Billieux et al :
Application No. 10/278,000 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. PUS-F001-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 21, 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 22, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

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

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

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MOETTELI & ASSOCIATES SARL
ST. LEONHARDSTRASSE 4
ST. GALLEN CH-90-00 CH SWITZERLAND

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APR 24 2008

In re Application of :
Serge Billieux et al. :
Application No. 10/278,000 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No.: PUS-F001-001

This is a decision on the petition filed March 22, 2008 to withdraw the holding of abandonment, under 37 CFR 1.181.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

In response to a non-Final Office Action mailed August 7, 2006, a Notice of Appeal was filed on November 7, 2006. An appeal brief was not filed within two months of the Notice of Appeal and thus the Application became abandoned. Accordingly, a Notice of Abandonment was mailed February 21, 2008. Petitioner argues that the amendment filed after the Office Action, within two months of the Notice of Appeal, was a proper response and timely filed and further that the response re-opened prosecution after the Notice of Appeal.

Petitioner is advised that the response due after the filing of a Notice of Appeal is an Appeal Brief. Applicant's amendments are not a proper response without a Request for Continued Examination (RCE) to reopen prosecution. See 37 CFR 41.33.

This application properly became abandoned January 9, 2007 for failure to file an Appeal Brief. Therefore, the Notice of Abandonment mailed February 21, 2008 was appropriate.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] 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).

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

By mail: Mail Stop Petition

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

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

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

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

Commissioner for Patents
P.O. Box 1450
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By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Serge Billieux et al. :
Application No. 10/278,000 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No.: PUS-F001-001

This is a decision on the petition filed May 9, 2008, under 37 CFR 1.137(b)[1], to revive the above-identified application.

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

In response to a non-Final Office Action mailed August 7, 2006, a Notice of Appeal was filed on November 7, 2006. An appeal brief was not filed within two months of the Notice of Appeal and thus the Application became abandoned. Accordingly, a Notice of Abandonment was mailed February 21, 2008. Petitioner argued in a March 22, 2008 petition under 37 CFR 1.181 that the amendment filed after the Office Action, within two months of the Notice of Appeal, was a proper response and timely filed and further that the response re-opened prosecution after the Notice of Appeal.

Petitioner was advised in a decision mailed April 24, 2008 that the response due after the filing of a Notice of Appeal is an Appeal Brief. Applicant's amendment was not a proper

---

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

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

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

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

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

response without a Request for Continued Examination (RCE) to reopen prosecution.[2] Thus the application properly became abandoned January 9, 2007 for failure to file an Appeal Brief. Therefore, the Notice of Abandonment mailed February 21, 2008 was appropriate.

Comes no petitioner with the instant petition and RCE with a request to have the amendment previously filed on January 3, 2007 as the submission required under 37 CFR 1.114 entered.

Petitioner's deposit account no. 50-2621 has been charged in the amount of $405.00 for the RCE and $770.00 for the petition.

This matter is being referred to Technology Center 2162 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[2]See 37 CFR 41.33

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ST. GALLEN CH-90-00 CH SWITZERLAND

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OFFICE OF PETITIONS

In re Application of :
Serge Billieux et al. :
Application No. 10/278,000 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. PUS-FOOI-O01 :

This is a decision on the petition filed April 23, 2009, to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181.

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

The application was held abandoned on November 10, 2008 for failure to file a timely response to the non-Final Office Action mailed August 8, 2008. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed March 30, 2009.

Petitioner asserts that a proper response in the form of an amendment was timely filed October 31, 2008. Submitted as proof is a copy of the response said to have been filed as well as an electronic acknowledgment receipt dated October 31, 2008.

A search of the application file and the USPTO records reveals that in fact, an amendment was timely filed with on October 31, 2008 and is of record. Accordingly, the Notice of Abandonment mailed March 30, 2009 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2162 for treatment of the response filed October 31, 2008.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Billieux et al.	:	DECISION ON PETITION
Application No. 10/278,000	:	TO WITHDRAW
Filed: October 22, 2002	:	FROM RECORD
Attorney Docket No. PUS-F001-001	:	

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 3, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Moetteli & Associates Sarl was never appointed as power of attorney in the above-identified patent application. The Oath, filed on October 6, 2003 only designates Moetteli & Associates Sarl as the Correspondence Address. Therefore, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Further, the request to change the correspondence address of record is not accepted in view of Moetteli & Associates not having power of attorney. See MPEP §§ 601.03 and 405. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There is an outstanding Final Office action mailed June 17, 2009, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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TOLEDO, OH 43604

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MACMILLAN, SOBANSKI & TODD

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OFFICE OF PETITIONS

In re Application of
Robert Walker, Thomas Fowler and Theodore Grohs
Application No. 10/278,001
Filed: October 22, 2002
Attorney Docket No. 1-73410
Title: VEHICLE SEAT ASSEMBLY

DECISION REFUSING STATUS UNDER 37 CFR § 1.47(a)

DOCKETED
By DJ File To SAP

This is a decision on the "Petition to Make Application on Behalf of Nonsigning Inventors Who Cannot Be Reached," filed February 10, 2003 (Certificate of Mailing, Monday, February 3, 2003).

The petition is **DISMISSED**.

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

The above-identified application was filed on October 22, 2002, with a declaration executed by joint inventors Walker and Fowler. Accordingly, on December 2, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of a declaration executed by inventor Grohs, payment of the statutory basic filing fee and payment of the surcharge for late filing under § 1.16(e).

In response, rule 47 applicants timely filed the instant petition, along with payment of the petition fee, the basic filing fee and the late surcharge. On petition, applicants assert that status under § 1.47(a) is proper because inventor Grohs cannot be reached to execute the declaration. In support

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thereof, applicants submit *inter alia* a statement of facts of patent attorney Scott Blake

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

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. By declaration of patent attorney Blake, petitioner has shown that the application papers were presented to inventor Grohs by certified mail, but inventor Grohs did not respond. The petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Grohs.

However, the declaration is unacceptable as it does not include the residence and/or mailing address of inventor Grohs. 37 CFR § 1.63(c) provides that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... [t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

On renewed petition, a new oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Grohs, including the information required for inventor Grohs, should be supplied. (Rule 47 applicants are reminded that an oath or declaration with non-initialized/non-dated changes is unacceptable).

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[1]

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

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

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

Nancy Johnson
Petitions Attorney
Office of Petitions

[1] Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOLEDO, OH 43604

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OFFICE OF PETITIONS

In re Application of :
Robert Walker, Thomas Fowler and :
Theodore Grohs :
Application No. 10/278,001 :
Filed: October 22, 2002 :
Attorney Docket No. 1-73410 :
Title: VEHICLE SEAT ASSEMBLY :

DECISION ACCORDING STATUS
UNDER 37 CFR § 1.47(a)

This is a decision on the "Request for Reconsideration of Petition under 37 CFR 1.47(a)," filed July 17, 2003.

The petition is **GRANTED**.

The above-identified application was filed on October 22, 2002, with a declaration executed by joint inventors Walker and Fowler. In response to the "Notice to File Missing Parts of Nonprovisional Application," mailed December 2, 2002, applicants timely filed the initial petition under § 1.47(a). However, the petition was dismissed for failure to submit an acceptable declaration; the declaration lacked the residence and/or mailing address of non-signing inventor Grohs (Decision mailed May 27, 2003).

On instant renewed petition, rule 47 applicants submitted two declarations executed, in combination, by inventors Walker and Fowler on behalf of themselves and on behalf of non-signing inventor Grohs.

The declarations filed July 17, 2003, have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the

address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 3636 for examination in due course.

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

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

In re Application of	:	
Robert Walker, Thomas Fowler and	:	
Theodore Grohs	:	DECISION REFUSING STATUS
Application No. 10/278,001	:	UNDER 37 CFR § 1.47(a)
Filed: October 22, 2002	:	
Attorney Docket No. 1-73410	:	
Title: VEHICLE SEAT ASSEMBLY	:	

This is a decision on the "Petition to Make Application on Behalf of Nonsigning Inventors Who Cannot Be Reached," filed February 10, 2003 (Certificate of Mailing, Monday, February 3, 2003).

The petition is **DISMISSED**.

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

The above-identified application was filed on October 22, 2002, with a declaration executed by joint inventors Walker and Fowler. Accordingly, on December 2, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of a declaration executed by inventor Grohs, payment of the statutory basic filing fee and payment of the surcharge for late filing under § 1.16(e).

In response, rule 47 applicants timely filed the instant petition, along with payment of the petition fee, the basic filing fee and the late surcharge. On petition, applicants assert that status under § 1.47(a) is proper because inventor Grohs cannot be reached to execute the declaration. In support

thereof, applicants submit *inter alia* a statement of facts of patent attorney Scott Blake

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

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. By declaration of patent attorney Blake, petitioner has shown that the application papers were presented to inventor Grohs by certified mail, but inventor Grohs did not respond. The petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Grohs.

However, the declaration is unacceptable as it does not include the residence and/or mailing address of inventor Grohs. 37 CFR § 1.63(c) provides that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... [t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

On renewed petition, a new oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Grohs, including the information required for inventor Grohs, should be supplied. (Rule 47 applicants are reminded that an oath or declaration with non-initialized/non-dated changes is unacceptable).

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

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
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By FAX: (703) 308-6916
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ATTN: NANCY JOHNSON

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

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

Nancy Johnson
Petitions Attorney
Office of Petitions

[1] Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003).

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ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD MI 48034-2442

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OFFICE OF PETITIONS

In re Application of :
Walter Lassmann et al :
Application No. 10/276,004 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. IN-5637 :

This is a decision on the petition, filed May 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1755 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).

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)
6,639,830	2003-10-28	10/278,005	2002-10-22	T4396-0

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	/Mitchell W. Shapiro/	Date (YYYY-MM-DD)	2008-04-01
Name	Mitchell W. Shapiro	Registration Number	31568

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. 6639830
Issue Date: October 28,2003
Application No. 10278005
Filed: October 22,2002
Attorney Docket No. 117040-69

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

This is a decision on the electronic petition, filed April 1,2008 ,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 1,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Paul J. Skwierawski
Regestration No. 32,173
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

AUG 20

In re Application of:	:	
ARABI, et al.	:	
Application No. 10/278,021	:	DECISION ON REQUEST TO
Filed: October 23, 2002	:	WITHDRAW FROM RECORD
Attorney Docket No. 219.42005X00	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 23, 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 that can be extended under 37 C.F.R. § 1.136(a).

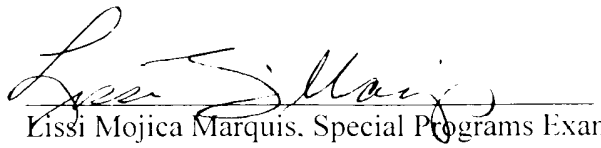
The request meets all the above requirements. The request was signed by Paul J. Skwierawski on behalf of all the attorneys of record in the above identified application and there is no outstanding Office action requiring a response by the applicant.

The request is approved.

The application currently has no attorney of record.

All future communications from the Office will be directed to Grace Abercrombie at the firm of Blakely, Sokoloff, Taylor & Zafman LLP at the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: c/o Grace Abercrombie
Blakely, Sokoloff, Taylor & Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94086

#9

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TECHNOLOGY CENTER 2100

Paper No. 9

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

In re Application of: Errikos Pitsos
Application No. 10/278,022
Filed: October 23, 2002
For: METHOD AND SYSTEM FOR CLASSIFYING ELECTRONIC DOCUMENTS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is a response to the petition filed May 17, 2004, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

6/30/04

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

BLJ: 6/30/04

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 10

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

In re Application of: Errikos Pitsos
Application No. 10/278,023
Filed: October 23, 2002
For: METHODS AND SYSTEM FOR PROVIDING A PUBLIC KEY FINGERPRINT LIST IN A PK SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)

This is a response to the petition filed April 26, 2004, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed April 26, 2004 fails to adequately meet requirement (e) of the criteria set forth above. While a discussion of the references has been provided, it lacks the specificity required under 37 CFR 1.111 (b) and (c). A general allegation that the claims define a patentable invention without specifically pointing out how ***the language of the claims*** patentably distinguishes them from the references does not comply with the requirements of this section. The petition must specifically point out how ***the claimed subjected matter*** is patentable over the cited references in view of 35 U.S.C. 102 and 35 U.S.C. 103.

In addition, and with respect to requirement (b) above, given the variance in the nature and number of independent claims of the instant application, minimally, petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above, should a requirement for election to a single invention be made by the examiner.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

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.

6/30/04

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

BLJ: 6/30/04

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AUG 0 3 2004

Paper No. 12

Technology Center 2100

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

In re Application of: Errikos Pitsos
Application No. 10/278,023
Filed: October 23, 2002
For: METHODS AND SYSTEM FOR PROVIDING A PUBLIC KEY FINGERPRINT LIST IN A PK SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the request for reconsideration (supplemental petition) filed on July 26, 2004. A petition to make special under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, was filed on April 26, 2004 and subsequently dismissed in the decision mailed on July 7, 2004.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

7/30/04

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

BLJ: 7/30/04

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JUL 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

In re Application of: Errikos Pitsos
Application No. 10/278,029
Filed: October 23, 2002
For: METHOD, GATEWAY AND SYSTEM FOR TRANSMITTING DATA BETWEEN A DEVICE IN A PUBLIC NETWORK AND A DEVICE IN AN INTERNAL NETWORK

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)

This is a response to the petition filed May 5, 2004, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed May 5, 2004 fails to adequately meet requirements (d) and (e) of the criteria set forth above. In regards to requirement (d) above, the submission is inconsistent with respect to the reference identified as "Balissat et al. (2003/0181843)" on form PTO/SB/08A. In the petition, a detailed discussion is directed to a reference identified as "Balissat et al. (2003/0191843)". It appears that the proper identification of this patent publication should be 2003/0191843 on form PTO/SB/08A by above identified inventors "Balissat et al.". Note also identified patent publication "US 20004/0015723" on form PTO/SB/08A should apparently be US 2004/0015723. Clarification and correction is requested. In regards to requirement (e) above, while a discussion of the references has been provided, it lacks the specificity required under 37 CFR 1.111 (b) and (c). A general allegation that the claims define a patentable invention without specifically pointing out how ***the language of the claims*** patentably distinguishes them from the references does not comply with the requirements of this section. The petition must specifically point out how ***the claimed subjected matter*** is patentable over the cited references. As identified in the petition, "independent claims 13, 23, 27-29, 33 and 34 is (are) directed to ..... a control unit ...". However, at least independent claims 27, 28, 33 and 34 lack the recited "control unit". In addition, the petition fails to identify claim 30 as an independent claim of the instant application and specifically, how the claimed subject matter therein is patentable over the references deemed most closely related by petitioner.

Finally, and with respect to requirement (b) above, given the variance in the nature and number of independent claims of the instant application, minimally, petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above, should a requirement for election to a single invention be made by the examiner.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

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.

7/1/04

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

BLJ: 6/30/04

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

In re Application of: Errikos Pitsos
Application No. 10/278,029
Filed: October 23, 2002
For: METHOD, GATEWAY AND SYSTEM FOR TRANSMITTING DATA BETWEEN A DEVICE IN A PUBLIC NETWORK AND A DEVICE IN AN INTERNAL NETWORK

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the request for reconsideration (supplemental petition) filed on August 2, 2004. A petition to make special under 37 C.F.R. §1.102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, was filed on May 5, 2004 and subsequently dismissed in the decision mailed on July 22, 2004.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

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(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP §708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

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

BLJ: 8/30/04

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BARRY E. BRETSCHNEIDER
MORRISON & FOERSTER LLP
SUITE 300
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Masahiro Shina :
Application No. 10/278,030 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 492322007800 :

This is a decision on the petition, filed June 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 6, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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SANDY UT 84091-1219

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OFFICE OF PETITIONS

In re Application of	:	
Rosario-Jansen et al.	:	
Application No. 10/278,033	:	ON PETITION
Filed: October 22, 2002	:	
Attorney Docket No. T7118NPCON	:	

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

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Docket Clerk
PO Drawer 800889
Dallas TX 75380

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Kalkunte et al.	:	
Application No. 10/278,034	:	DECISION GRANTING
Filed: October 22, 2002	:	PETITION
Attorney Docket No. BA0319C	:	
(NORT10-00241)	:	

This is a decision on the petition under 37 CFR 1.10(c), filed July 12, 2004, requesting that the above-identified application be accorded a filing date of October 22, 2002, rather than the presently accorded filing date of October 23, 2002.

Petitioner alleges that the application was deposited in Express Mail service on October 22, 2002. In support of the allegation, the petition is accompanied by a United States Postal Service Track & Confirm receipt indicating that a package bearing Express Mail label No. EU628488298US was deposited in Express Mail service in Dallas, TX, on October 22, 2002, at 4:57 PM. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-0208.

The Office of Initial Patent Examination is direct to correct the filing date to October 22, 2002, and to mail a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

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Paper No.

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Kolberg et al. :
Application No. 10/278,040 : ON APPLICATION FOR
Filed: October 22, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 117163.00057 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d) filed March 19, 2009. Applicants submit that the correct Office delay is one thousand two hundred sixty (1260) days. Referring to Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent (as of the filing of a request for continued examination (RCE) the application was pending more than 3 years).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

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

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

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on March 3, 2006.

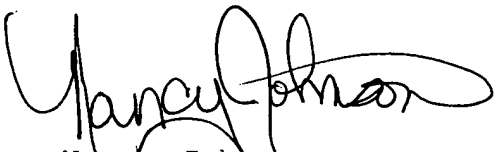
The determination of the patent term adjustment at the time of the mailing of the notice of allowance remains one thousand one hundred twenty-six (1126) days.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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P O BOX 37428
RALEIGH, NC 27627

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OFFICE OF PETITIONS

In re Application of :
Brian R. Young et al :
Application No. 10/278,064 : DECISION ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. 9060-197 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on April 24, 2006. A Notice of Abandonment was mailed on September 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of January 23, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2173 for appropriate action in the normal course of business on the reply received September 18, 2006.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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WILLIAM F DEE
SENIOR PATENT & TRADEMARK COUNSEL
TYCO HEALTHCARE GROUP
15 HAMPSHIRE STREET
MANSFIELD, MA 02048

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OCT 18 2005

OFFICE OF PETITIONS

In re Application of :
Harish A. Patel :
Application No. 10/278,072 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 024637-138 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 18, 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 January 19, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 18, 2004 is accepted as having been unintentionally delay.

The Associate Power of Attorney filed on August 17, 2005, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b)). The paper has been placed in the official file; however, the names of the patent practitioner listed on the Associate Power of Attorney has **not** been made 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 3761.

Wan Laymon
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 6,835,374	:	
Issue Date: December 28, 2004	:	
Application No. 10/278,073	:	ON PETITION
Filed: October 23, 2002	:	
Attorney Docket No. GC-REH 012	:	

This is a decision on the petition under 37 CFR 1.182, filed October 14, 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.

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

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Kimberly Terrell, South Tower, 8th Floor (Fax – (703) 746-4658)

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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of
Gerard M. Col, et. al.
Application No. 10/278,088
Filed: October 21, 2002
Attorney Docket No. CNTR.2025

ON PETITION

This is a decision on the petition, filed March 18, 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 **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. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and 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. A review of the file record shows that a Request to Rescind was filed on March 18, 2005. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

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

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

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

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

Any questions concerning this decision should be directed to Andrea Smith at (571) 272-3226.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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COLORADO SPRINGS CO 80907-7449

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OCT 27 2005

OFFICE OF PETITIONS

In re Application of
Gerard M. Col, et. al.
Application No. 10/278,088
Filed: October 21, 2002
Attorney Docket No. CNTR.2025

: DECISION ON PETITION
: UNDER 37 CFR 1.137(b) AND NOTICE
: RESETTING PERIOD FOR REPLY TO
: NON-FINAL OFFICE ACTION
:

This is a decision on the renewed petition, filed by facsimile transmission on August 23, 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 10/20/2003. 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 setting forth a projected publication date of June 30, 2005 was previously mailed on March 24, 2005.

There is no indication that a reply to the non-final Office action of August 17, 2005 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of August 17, 2005 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

This application is being referred to Technology Center Art Unit 2183 to await a reply to the non-final Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

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

Andrea Smith
Petitions Examiner
Office of Petitions

6,245,177

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
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Washington, D.C. 20231

Paper No. 4

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SPRUNG HORN KRAMER & WOODS
660 White Plains Road, 4th Fl.
Tarrytown, New York 10591-5144

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MAY 01 2003 OFFICE OF PETITIONS
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AIC PATENTS

In re Application of
Lühmann
Application No. 08/618,707 : DECISION GRANTING PETITION
Filed: March 20, 1996
Attorney Docket No. Beiersdorf 368

This is a decision on the petition filed May 13, 1996, requesting that the above-identified application be accorded a filing date of March 20, 1996.

On March 20, 1996, the application was deposited.

On May 1, 1996, Application Division mailed a Notice stating that drawings of Figures 1-9 described in the specification were required in compliance with 35 USC 111 and that the filing date of the application would be the date of receipt of the omitted drawings.

In response, on May 13, 1996, the present petition, including an authorization to charge counsel's deposit account for the requisite petition fee, was filed. Petitioner argues that the drawings of Figures 1-9 were present in the priority document submitted on filing. Petitioner requests that the application be accorded a filing date of March 20, 1996. A copy of three (3) sheets of drawings containing Figures 1-9 and one (1) sheet of drawings containing "DRAWING FOR ABSTRACT FIGURE 1" were also submitted.

A review of the record reveals that no sheets of drawings were submitted with the application papers on March 20, 1996.

Clearly, Figures 1-9 were intended to be a part of the application. Since the application, as filed, referred to Figures 1-9, the application was prima facie incomplete in the absence of Figures 1-9. Thus, the present petition and petition fee were necessary in view of applicant's filing error.

A further review of the record reveals that the application papers, deposited March 20, 1996, included a priority document, which contained three (3) sheets of drawings. A review of the

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EXHIBIT 1
COPY FOR USSN 10/278,117

sheets of drawings containing Figures 1-9 submitted May 13, 1996, with the present petition indicates that they are identical to the sheets of drawings containing Figures 1-9 in the priority document submitted March 20, 1996. Accordingly, on petition, the three (3) sheets of drawings containing Figures 1-9 in the priority document will be construed as part of the drawings for this application for filing date purposes. However, the three (3) sheets of drawings, which contains Figures 1-9, submitted May 13, 1996, will be used for examination purposes. A review of the one (1) sheet of drawings containing "DRAWING FOR ABSTRACT FIGURE 1" submitted May 13, 1996 indicates that it is not identical to the sheets of drawings in the priority document submitted March 20, 1996. Accordingly, on petition, the one (1) sheet of drawings containing "DRAWING FOR ABSTRACT FIGURE 1" will not be construed as part of the drawings for this application for filing date purposes.

In view of the above, the petition is granted.

Receipt is acknowledged of a preliminary amendment and an assignment filed March 20, 1996.

The application is being forwarded to the Office of Finance for charging the $130.00 petition fee to counsel's deposit account No. 19-3869.

Thereafter, the application will be returned to Application Division for further processing with a filing date of March 20, 1996, and an indication on the file wrapper that three (3) sheets of drawings were present on filing.

Telephone inquiries related to this decision should be directed to the Office of Petitions staff at (703) 305-9282.

Fred A. Silverberg
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

jlh

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4

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/278,117	10/22/2002	Olaf Mrotzek	100727-43/Heraeus 398-K

CONFIRMATION NO. 1808

FORMALITIES LETTER

OC000000009563435

27384
KURT BRISCOE
NORRIS, MCLAUGHLIN & MARCUS, P.A.
220 EAST 42ND STREET, 30TH FLOOR
NEW YORK, NY 10017

Date Mailed: 02/26/2003

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below **and a newly executed oath or declaration covering the items must** be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated *(37 CFR 1.53(e))*.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the $130.00 petition fee *(37 CFR 1.17(h))*. If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

A copy of this notice MUST be returned with the reply.

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Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/278,117		Olaf Mrotzek	100727-43/Heraeus 398-K

CONFIRMATION NO. 1808

27384
KURT BRISCOE
NORRIS, MCLAUGHLIN & MARCUS, P.A.
220 EAST 42ND STREET, 30TH FLOOR
NEW YORK, NY 10017

WITHDRAWAL NOTICE

OC000000009563344

Date Mailed: 02/26/2003

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice mailed on 11/25/2002 was sent in error and is hereby withdrawn. A corrected Notice is enclosed. The time period for reply runs from the mail date of the corrected Notice. We apologize for any inconvenience this caused.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

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Paper No. 7

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NORRIS MCLAUGHLIN & MARCUS PA
220 EAST 42ND STREET
30TH FLOOR
NEW YORK NY 10017

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MAY 21 2003

OFFICE OF PETITIONS

In re Application of :
Mrotzek, et al. :
Application No. 10/278,117 : DECISION ON PETITION
Filed: October 22, 2002 :
Title: MULTICOLOR TOOTH USED AS A :
LAYERING MODEL IN PREPARING VENEERS

This is a decision on the "Petition for Filing Date", filed April 28, 2003, requesting that the above-identified application be accorded a filing date of October 22, 2002, with drawings of Figures 1 - 4 as a part of the original disclosure of the application.

The application was deposited on October 22, 2002. However, drawings of Figures 1 - 4 described in the specification were omitted. Accordingly, a Notice of Incomplete Nonprovisional Application was mailed on February 26, 2003. This notice set a two month period for reply.

In reply, petitioner filed the instant petition on April 28, 2003.[1] Included with the petition was one sheet of drawings containing Figures 1 - 4. Petitioner points out that the drawings of Figures 1 - 4 were present in the priority document (DE 101 57 623.3) that was filed concurrently with the application.

A review of the record reveals that no sheets of drawings were submitted with the application papers on October 22, 2002.

However, a review of the priority document submitted on October 22, 2002 reveals that it does include a sheet of drawings containing Figures 1 - 4 which are identical to Figures 1 - 4 which were intended to be filed on October 22, 2002, and which appear to correspond to the figures described in the specification. Accordingly, on petition, the drawings in the priority document will be construed as the drawings for this application for filing date purposes.

In view of the above, the petition is **GRANTED**.

---

[1] Made timely because April 26th and April 27th fell on a Saturday and Sunday, respectively. See 37 CFR 1.7(a).

Clearly, Figures 1 - 4 were intended to be a part of the application. Since the application, as filed, referred to Figures 1 - 4, the application was *prima facie* incomplete in the absence of Figures 1 - 4. Thus, the present petition and petition fee were necessary in view of applicant's filing error.

The petition fee of $130 has been charged to Deposit Account No. 14-1263, as authorized.

The application file is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of October 22, 2002, using the application papers received in the Office on that date and a copy of Figures 1 - 4 supplied on April 28, 2003. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: Yoshihisa Terada	: DECISION ON REQUEST FOR
Patent Number	: 7596624	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/278,118	: 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 **1311** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 10

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

MAIL

MAR - 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
STEELE :
Application No. 10/278,139 :
Filed: October 22, 2002 :
For: **MULTIMEDIA RACING EXPERIENCE SYSTEM AND CORRESPONDING EXPERIENCE BASED DISPLAYS** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on September 8, 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 future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Technical support Staff to update the correspondence address and then will be forwarded to TC 2600 central files.

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

cc:
Jonathan Aberman
Fish & Richardson
1425 K Street, N.W.
Suite 1100
Washington D.C. 20005

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

JUN 29 2004

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Paper Number: ____

In re application of :
Paul Danton Huish et al : DECISION ON
Serial No. 10/278,161 : PETITION
Filed: October 21, 2002 :
For: COMPOSITION CONTAINING ALPHA-SULFOFATTY ACID ESTER AND HYDROTROPE AND METHODS OF MAKING AND USING THE SAME :

This is a response to the PETITION UNDER 37 CFR 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed February 25, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 30, 2003, for failure to timely file a proper response to the Office letter dated June 17, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response and a Petition for Extension of Time on December 15, 2003.

DECISION

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

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of June 17, 2003 in a timely manner. The evidence provided includes: 1) copies of the Amendment, Petition for Extension of Time and Transmittal Form with an executed Certificate of Mailing on December 15, 2003; and 2) a copy of the returned stamped postcard confirming receipt of the Amendment and Petition for Extension of Time by the USPTO dated December 17, 2003.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application will be forwarded to the Technical Support Staff

for entering of the Response dated December 15, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 005222
10 S. WACKER DRIVE, 30TH FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Terence Winfield Ibert	: DECISION ON REQUEST FOR
Patent Number	: 7627853	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/278,171	: 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 **1310** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Mark C. Bates et al	:	
Application No. 10/278,172	:	
Filed: October 21, 2002	:	
Attorney Docket No. 1001.1699103	:	

This is a decision on the petition, filed April 15, 2005, and supplemented on April 21, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application.

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

This matter is being referred to Files Repository.

Karen Creasy

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

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OFFICE OF PETITIONS

In re Patent No. 6,756,180 :
Issue Date: June 29, 2004 :
Application No. 10/278,178 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. 12533-6531 :

This is a decision on the petition filed August 8, 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
Petitions Examiner
Office of Petitions

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MARK YOUNG, P.A.
12086 FORT CAROLINE RD., UNIT 202
JACKSONVILLE, FL 32225

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OFFICE OF PETITIONS

In re Application of
James F. Anderson
Application No. 10/278.219
Filed: October 23, 2002
Attorney Docket No.: P-728-2

ON PETITION

This is a decision on the petition filed November 24, 2005 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 March 22, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested within the extendable time allowed, this application became abandoned June 23, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time fee submitted with the petition on November 24, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded in due course.

---

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

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

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

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

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

This matter is being referred to Technology Center 3671 for appropriate action on the amendment filed November 24, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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12086 FORT CAROLINE ROAD
UNIT 202
JACKSONVILLE, FL 32225

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OFFICE OF PETITIONS

In re Application of	:	
James F. Anderson	:	
Application No. 10/278,219	:	DECISION ON PETITION
Filed: October 23, 2002	:	
Attorney Docket No. P-728-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 21, 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 August 2, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 3, 2006. A Notice of Abandonment was mailed on March 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $750.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3643 for appropriate action by the Examiner in the normal course of business on the reply received September 21, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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PATENT COUNSEL, MS/2061
LEGAL AFFAIRS DEPT.
APPLIED MATERIALS, INC.
P.O. BOX 450A
SANTA CLARA, CA 95052

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hsieh et al. :
Application No. 10/278,233 :
Filed: October 21, 2002 :
Attorney Docket No. Applied-B/ :
(007341USA/ETCH/DICP/JB1)

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 10, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Cc: MICHAELSON & ASSOCIATES
COUNSELORS AT LAW
PARKWAY 109 OFFICE CENTER
328 NEWMAN SPRINGS ROAD
P.O. BOX 8489
RED BANK, NJ 07701

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KEVIN L. RUSSELL
SUITE 1600
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

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OFFICE OF PETITIONS

In re Application of :
Schwindt, Randy :
Application No. 10/278,313 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. KLR 1016.2008 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 14, 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 October 28, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on January 29, 2004.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475.00 extension of time fee submitted with the petition on May 14, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

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SCHWEITZER CORNMAN GROSS & BONDELL LLP
292 MADISON AVENUE - 19th FLOOR
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Whymark, Thomas J.	:	
Application No. 10/278,332	:	DECISION ON PETITION
Filed: October 23, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1016-014P/FS3	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

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

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 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 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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292 MADISON AVENUE – 19TH FLOOR
NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of :
Thomas J. Whymark :
Application No. 10/278,332 :
Filed: October 23, 2002 :
Attorney Docket No. 1016-014P/FS3 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 10/274,018, filed October 18, 2002.

The petition is **GRANTED**.

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

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

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). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional Application No. 10/274,018 has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and

(3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional Application No. 10/274,018, filed October 18, 2002, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211. 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 2611 for appropriate action on the amendment filed September 26, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional Application No. 10/274,018, filed October 18, 2002.

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

ATTACHMENT: Corrected Filing Receipt

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TECHNOLOGY CENTER 2600

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

In re Application of :
Kazuyuki MURATA :
Application No. 10/278,340 :
Filed: October 22, 2002 :
For: **DIGITAL COPIER WITH IMAGE SCANNER APPARATUS AND OFFLINE IMAGE DATA AND CONTROL DATA INTERFACE** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 22, 2002, 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 fails to fully discuss the search method employed, such as classes and sub-classes item (4).

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.

The application is being forwarded to the group Central File and will await action in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Commissioner for Patents
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Paper No. 7

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of :
Nicholas Anderson :
Application No. 10/278,366 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 78101 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 16, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 17, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

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

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

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

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)
6,658,705	2003-12-09	10/278,381	2002-10-23	2120-01

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

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James E. Bame/	Date (YYYY-MM-DD)	2008-05-29
Name	James E. Bame	Registration Number	44521

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6658705
Issue Date: December 9,2003
Application No. 10278381
Filed: October 23,2002
Attorney Docket No. CU-3008 RJS

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

This is a decision on the electronic petition, filed May 29,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Evgeny I. Rivin
4227 Fox Pointe Drive
West Bloomfield, MI 48323

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OFFICE OF PETITIONS

In re Application of :
Evgeny I. Rivin :
Application No. 10/278,384 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed December 28, 2005. A Notice of Abandonment was mailed on September 27, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on October 31, 2006, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

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.

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.

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

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Cc: Allen Krass
Gifford, Krass, Groh, Sprinkle, Anderson & Citkowski, PC
2701 Troy Center Drive, Suite 330
P.O. Box 7021
Troy, MI 48007-7021

Enclosure: Courtesy Copy of the Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/278,384	**Applicant(s)** RIVIN, EVGENY I.
	Examiner N. Bhat	**Art Unit** 1764

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-11.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

N. Bhat
Primary Examiner
Art Unit: 1764

Continuation of 11. does NOT place the application in condition for allowance because: The amendment to the specification as set forth in the Paper of October 31, 2006, contains new matter which is not supported by the original claims nor is the change in the frequency shown in any example and therefore constitutes new matter and the claims amended after Final in the March 8, 2006 amendment has not been entered for reasons delineated in the advisory action mailed Septemeber 18, 2006..

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OFFICE OF PETITIONS

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
P.O. BOX 7021
TROY, MI 48007-7021

In re Application of :
Evgeny I. Rivin :
Application No. 10/278,384 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. RIV-10002/03 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on September 27, 2007, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 along with the $395 filing fee and an amendment; (2) the previously submitted petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The Power of Attorney and Correspondence Address Indication Form filed on September 27, 2007 has been accepted and made of record.

This application file is being referred to Technology Art Unit 1764, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/278,384	10/23/2002	Evgeny I. Rivin	

CONFIRMATION NO. 8934

OC00000002614 5095

25006
GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Date Mailed: 10/03/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/27/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

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

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)
6925665	2005-08-09	10278438	2002-10-23	22-0442

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

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Eric Hennings/	Date (YYYY-MM-DD)	2010-01-15
Name	Eric Hennings		

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.**

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

In re Patent No. 6925665
Issue Date: August 9,2005
Application No. 10278438
Filed: October 23,2002
Attorney Docket No. 22-0442

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

This is a decision on the electronic petition, filed January 15,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 15,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE CA 94085

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of	:
Dubey et al.	: DECISION GRANTING
Application No. 10/278,440	: PETITION
Filed: 22 October, 2002	:
Attorney Docket No. SUNMP122	:

This is a decision on the petition filed on 28 January, 2003, under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 22 October, 2002, rather than the presently accorded filing date of 24 October, 2002.

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail service on 22 October, 2002. In support, on 18 March, 2002, petitioner supplied a copy of Express Mail Label No. EV132227785US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label, has not been completed. The Express Mail label, however, also contains an official USPS postmark, however, dated 22 October, 2002.

In view of the above, the petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to **22 October, 2002**. Thereafter, the application will be forwarded to Technology Center 2100 for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS, SD 57117

COPY MAILED

NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of :
James Welch :
Application No. 10/278,456 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 22-0502 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed July 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 13, 2004.

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.

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 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

cc:

Jeffrey A. Proehl
Leonard & Proehl, Prof., LLC
3500 S. First Ave. Circle, Suite 250
Sioux Falls, SD 57105-5802

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/19/08

Paper No.: —

TO SPE OF : ART UNIT 2121

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/278469 Patent No: 7146231 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: Corrections are approved as suggested in certification of correction filed on 5/19/08.

DAVID R. VINCENT
SUPERVISORY PATENT EXAMINER

SPE

2129
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

MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

COPY MAILED

AUG 31 2006

OFFICE OF PETITIONS

In re Patent No. 6,920,540
Hampel et al.
Issue Date: July 19, 2005
Application No. 10/278,478
Filed: October 22, 2002
Atty Docket No. 9797-0097-999

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

This is a decision on the "PETITION UNDER 37 CFR § 1.705(d)" filed July 19, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred eighty-eight (188) days to three hundred eight (308) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred eight **(308)** days.

On July 19, 2005, the above-identified application matured into U.S. Patent No. 6,920,540, with a revised patent term adjustment of 188 days. On July 19, 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 308 days. Patentees dispute the reduction of 120 days for filing of a "SUBSTANCE OF THE INTERVIEW." The patent issuing from this application is not subject to a terminal disclaimer.

A review of the application record confirms that the reduction of one hundred sixteen (116) days was based on the filing of the Interview Summary. Such a paper is not identified as one of the papers the filing of which the Director has specifically deemed not to be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704 (c) (10). Nonetheless, under the circumstances of this case, it is concluded that the filing of applicants' Interview Summary is not failure to engage within the meaning of 37 CFR 1.704 (c) (10). Thus, it is concluded that the reduction of one hundred sixteen (116) days is not warranted.

In view thereof, the patent should have issued with a patent term adjustment of 308 days.

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 **THREE HUNDRED EIGHT (308)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Patricia Faison-Ball, at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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

MAILED

JAN 30 2003

Directors Office
Group 3700

TROUTMAN SANDERS LLP
Bank of America Plaza, Suite 5200
600 Peachtree Street., N>E>
Atlanta, Georgia 30308-2216

In re application of : DECISION ON PETITION
Crutchfield Paul : TO MAKE SPECIAL
: UNDER 37 CFR. 1.102(c)

Serial Number: 10/278480 :
Filed: October 23, 2002 :

For: **THERMAL MANAGEMENT SYSTEM**

This is a decision on the petition filed on October 23, 2002, 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 is 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: 1/30/03

Docket: 11047.02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Joseph J. Kirkland et al.		
Appln. No.:	10/278,517		
Filed:	October 23, 2002	Examiner:	Ana Fortuna
		Group Art	
Title:	Porous Silica Microsphere Scavengers	Unit:	1723

REQUEST FOR WITHDRAWAL OF ABANDONMENT UNDER 37 CFR § 1.181(a)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this document is being sent via facsimile (703) 872-9306 to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16 day of March, 2004.

Francis Essex
Signature

Sir:

Applicant respectfully requests withdrawal of abandonment in the above-identified application.

Applicant's representative attorney Scott D. Rothenberger thanks Examiner Fortuna for speaking with him on March 15, 2004 and providing insight into the status of the above-identified application. As requested by Examiner Fortuna, the following explanation is provided why the application should not have been abandoned; and that the publications branch made an obvious error and did not contact Examiner Fortuna prior to abandoning the application.

Applicant received a Notice of Abandonment in the above-identified patent application mailed on January 30, 2004, for failure to respond to the Notice to File Corrected Application Papers mailed on December 30, 2002.

Applicant submitted a Response to the Notice to File Corrected Application in a timely manner on February 27, 2003. Applicant explained in the response that page 18 of the specification had not been omitted, but rather that page 18 had also been blank in corresponding U.S. Patent Application No. 10/035,901, now issued as U.S. Patent No. 6,482,324, and U.S. Patent Application No. 09/428,202, filed on October 27, 1999, now abandoned *(copy enclosed)*.

Applicant subsequently received a Notice of Allowance dated September 16, 2003, and paid the issue fee by December 16, 2003.

During this period of allowance, Applicant received another Notice to File Corrected Application Papers, mailed on November 3, 2003, to which Applicant responded on November 17, 2003, stating the same facts as filed in the first Notice to File Corrected Application Papers *(copy enclosed)*.

Applicant believes that the responses filed for the Notice to File Corrected Application Papers, discussed above conveyed to the Examiner, that page 18 of the specification was not omitted, and could be removed by the Patent Office if they chose to do so.

Applicant respectfully requests that the Notice of Abandonment be withdrawn in the above-identified patent application.

Applicant believes that no fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 04-1420 for any fees deemed necessary.

The Commissioner is invited to telephone the below-signed attorney if further explanation is necessary.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

Date: March 16, 2004

By: Scott Rothenberger

Scott D. Rothenberger, (Reg. No. 41,277)
Intellectual Property Department
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498
(612) 340-8819

COPY

Docket: 11047.02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	Joseph J. Kirkland		
Appln. No:	10/278,517		
Filed:	October 23, 2002	Examiner:	Unknown
		Group Art Unit:	1723
Title:	Porous Silica Microsphere Scavengers		

RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS

Commissioner for Patents
Washington, D.C. 20231

I hereby certify that this document is being sent via First Class U.S. mail addressed to: Commissioner for Patents, Washington, D.C. 20231 on this 31 day of January, 2003.

Frances Cole
(Signature)

Sir:

In response to the Notice to File Corrected Application Papers, mailed on December 30, 2002, Applicant submits herewith replacement pages 19 and 20 of the specification to comply with the requirements under 37 C.F.R 1.52, 1.12(b)(3) and 1.125. No new matter has been added.

Applicant confirms that page 18 of the specification was not omitted. Applicant submitted a duplicate of U.S. Application No. 10/035,901, filed on December 26, 2001, now issued as U.S. Patent No. 6,482,324, which claimed priority to U.S. Patent Application No. 09/428,202, filed on October 27, 1999, now abandoned, to which the above-identified application claims priority. In each of these instances page 18 of the specification was blank.

The Commissioner is hereby authorized to remove blank page 18 from the application.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

Date: 1/27/03

By: _____
Daniel G. Chapik, (Reg. No. 43,424)
Intellectual Property Department
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498
(612) 343-7955

COPY

Docket: 11047.02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	Joseph J. Kirkland et al.		
Appln. No.:	10/278,517		
Filed:	October 23, 2002	Examiner:	Unknown
		Group Art Unit:	1723
Title:	Porous Silica Microsphere Scavengers		

RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS

"Rori Burch"
2231 Crystal Drive
Suite 918
Arlington, VA 22202

I hereby certify that this document is being sent via First Class U.S. mail addressed to "Rori Burch", Suite 918, Arlington, VA 22202 on this 12th day of November, 2003.

Frances Evans
(Signature)

Sir:

In response to the Notice to File Corrected Application Papers, mailed on November 3, 2003, Applicant would like to bring to the Examiner's attention that page 18 of the specification as filed on October 23, 2003, was intentionally left blank and can be removed by the Patent Office. U.S. Serial No. 10/278,517 as identified above is an exact duplicate of the parent application U.S. 09/428,202 filed on October 27, 1999 which included "blank" page 18. Applicant determined it was best to file the application with blank page 18 to show that the specification was identical to the parent application, and that no issue would arise as to Applicant's duty to disclose or Applicant's conduct.

The Examiner is invited to telephone the below-signed attorney, if further clarification is needed.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

Date: November 12, 2003

By: Scott Rothenberger
Scott D. Rothenberger, (Reg. No. 41,277)
Intellectual Property Department
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498
(612) 340-8819

DORSEY
DORSEY & WHITNEY LLP

FAX COVER SHEET

The information contained in this facsimile message, if a client of this firm is a named addressee, or the message is otherwise intended for a client, is presumptively legally privileged and confidential information. If you are not a named addressee, or if there is any reason to believe that you may have received this message in error, (1) do not read the message below; (2) do not distribute or copy this facsimile; and (3) please immediately call us collect at the number of the sender below.

DATE:	**April 12, 2004**	TOTAL # OF PAGES: (INCLUDING THIS COVER SHEET)	**5 pgs**
TO:	**Examiner Ana Fortuna**	FAX #:	**571-273-1141**
FIRM NAME:	**U.S. Patent and Trademark Office**	PHONE #:	**703-872-9306**
FROM:	**Frances L. Essien**	FAX #:	**(612) 340-8856**
PHONE #:	**(612) 340-7849**	EMAIL:	**essien.frances@dorsey.com**

COMMENTS:

Re: U.S. Patent Application
Title: Porous Silica Microsphere Scavengers
Appln. No.: 10/278,517
Date Filed: October 23, 2002
Dkt. No.: 11047.02

Dear Examiner Fortuna:

Attached please find the Request for Withdrawal of Abandonment under 37 C.F.R. 1.181(a), along with the supporting documents as faxed to you on March 16, 2004.

Thank you,

Frances Essien

Frances Essien
Paralegal

ORIGINAL WILL BE SENT VIA: ☐ MAIL ☐ E-MAIL ☐ MESSENGER ☐ AIR COURIER ☒ WILL NOT BE SENT

PLEASE CONTACT FRANCES L. ESSIEN AT (612) 340-7849 IF THIS TRANSMISSION IS INCOMPLETE OR CANNOT BE READ.

REFERENCE # 7124;454335-46

DORSEY & WHITNEY LLP · WWW.DORSEY.COM · T 612.340.2600 · F 612.340.2868
SUITE 1500 · 50 SOUTH SIXTH STREET · MINNEAPOLIS, MINNESOTA 55402-1498
USA CANADA EUROPE ASIA

Docket: 11047.02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor:	Joseph J. Kirkland et al.		
Appln. No.:	10/278,517		
Filed:	October 23, 2002	Examiner:	Unknown
		Group Art	
Title:	Porous Silica Microsphere Scavengers	Unit:	1723

RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS

"Rori Burch"
2231 Crystal Drive
Suite 918
Arlington, VA 22202

I hereby certify that this document is being sent via First Class U.S. mail addressed to "Rori Burch", Suite 918, Arlington, VA 22202 on this 17th day of November, 2003.

Frances Evans
(Signature)

Sir:

In response to the Notice to File Corrected Application Papers, mailed on November 3, 2003, Applicant would like to bring to the Examiner's attention that page 18 of the specification as filed on October 23, 2003, was intentionally left blank and can be removed by the Patent Office. U.S. Serial No. 10/278,517 as identified above is an exact duplicate of the parent application U.S. 09/428,202 filed on October 27, 1999 which included "blank" page 18. Applicant determined it was best to file the application with blank page 18 to show that the specification was identical to the parent application, and that no issue would arise as to Applicant's duty to disclose or Applicant's conduct.

The Examiner is invited to telephone the below-signed attorney, if further clarification is needed.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

Date: November 17, 2003

By: Scott Rothenberger
Scott D. Rothenberger, (Reg. No. 41,277)
Intellectual Property Department
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498
(612) 340-8819

UNITED STATES PATENT AND TRADEMARK OFFICE

SDR/PLG

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

NOV 10 2003

11047.02
Agilent Tech.

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPT.
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

Serial No. : 10/278517
Applicant : KIRKLAND
Filing Date : 10/23/02
Date Mailed : 11/03/03

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 30 days from the mail date of this Notice within which to correct the informalities indicated below. A failure to reply will result in the application being ABANDONED. This period for reply is NOT extendable under 37 CFR 1.136 (a) or (b).

- **Page 18 of the original specification missing.**

APPLICANT MUST SUPPLY MISSING INFORMATION WITHIN 30 DAYS OF THE MAIL DATE OF THIS NOTICE.

A copy of this notice MUST be returned with the reply. Please address response to "Rori Burch 2231 CRYSTAL DRIVE SUITE 918 ARLINGTON, VA 22202"

Name : Your Name: Patricia Small
Data Query
Phone 703-305-8390
Fax 703-308-6642

DOCKETED

PET. DEC.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Mailed: 4/19/05

rvk
Paper No. _____

In re application of:
Joseph J. Kirkland et al
Serial No.: 10/278,517
Filed: October 23, 2002
For: POROUS SILICA MICROSPHERE SCAVENGERS

DECISION ON PETITION

This is a response to the REQUEST FOR WITHDRAWAL OF ABANDONMENT UNDER 37 CFR 1.181(a), filed April 12, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 30, 2004, for failure to timely file a proper response to the Office letter dated November 03, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response to the Office letter on November 17, 2003.

DECISION

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

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of November 03, 2003 in a timely manner. The evidence provided includes a copy of the Response with an executed Certificate of Mailing dated November 17, 2003.

Therefore, the abandonment is hereby withdrawn, and the application is returned to

allowance status. The application will be forwarded to the Office of Patent Publication for prompt consideration of the Response dated November 17, 2003.

The Petition is **GRANTED.**

JMstone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL 429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O.BOX 7699
LOVELAND, COLORADO, 80537-0599

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DANIEL W. LATHAM
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY
MINNEAPOLIS MN 55432

COPY MAILED

MAR 16 2007

OFFICE OF PETITIONS

In re Application of :
Matthew D. Bonner, et al. :
Application No. 10/278,531 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. O-10871.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 22, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 September 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114 and fee of $790; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 3737 for further processing the RCE in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

COPY MAILED

MAR 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Ramachandrarao et al.	:	
Application No. 10/278,535	:	DECISION ON PETITION
Filed: October 23, 2002	:	
Attorney Docket No. ITL.0900US (P15196)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 1792 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MATTHEW KASER
MENDEL BIOTECHNOLOGY, INC.
21375 CABOT BLVD.
HAYWARD CA 94545

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MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of	: NOTICE OF INCOMPLETE REPLY
Samaha et al.	: AND
Application No. 10/278,536	: DECISION DISMISSING
Filed: 22 October, 2002	: PETITION
Attorney Docket No. MBI-0011-2 DIV	:

This is a decision on the paper filed on 9 December, 2002, which is treated as petition under 37 CFR 1.53(e) in response to the Notice mailed on 25 November, 2002.

The petition is **dismissed**.

The application was filed on 22 October, 2002. However, on 25 November, 2002, the Office mailed a "Notice to Comply with Requirements for Patent Applications Containing Nucelotide Sequence and/or Amino Acid Sequence Disclosures" stating that the application had been accorded a filing date of 22 October, 2002, and advising applicants that the application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 CFR 1.821(c) and that Figure 1h disclosed in the specification appeared to have been omitted from the application.

In response, the present petition was filed on 9 December, 2002.

NOTICE OF INCOMPLETE REPLY

A review of the official file reveals that a paper copy of the "Sequence Listing" as well as a CD marked "Copy 1". While the papers filed on 9 December, 2002, appear to be a *bona fide* attempt to reply to the Notice mailed 25 November, 2002, a complete reply to the Notice has not been provided in that

petitioners have not provided an amendment directing entry of the Sequence Listing nor a statement that the content of the sequence listing in computer readable form (CRF) is identical to the written (on paper or compact disc) sequence listing, and where applicable, includes no new matter, as required by 37 CFR 1.821(e)-(g) and 1.825(b) or (d). Petitioners are therefore given ONE (1) MONTH to submit an amendment directing the entry of either the paper copy or the compact disc copy of the Sequence Listing as well as the aforementioned statement. **Failure to timely reply to this Notice will lead to abandonment of the application.** Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

DECISION ON PETITION

With regard to the omitted item, petitioners state that this application is a division of co-pending Application No. 09/532,591, filed 22 March, 2000, and that the present application incorporated by reference the prior application.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners do not assert that the missing page was deposited on 22 October, 2002, but rather request that the Office "transfer" a copy of the missing Figure 1h from the prior application to the present application.

It is noted that the application transmittal letter identified this application as a division of prior application No. 09/532,591 and specifically incorporated by reference the

disclosure of the prior application. MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Petitioners are advised that there is no provision in the rules or MPEP for the Office to transfer a copy of papers from one application to another. However, petitioners may file Figure 1h in the present application as a preliminary amendment. No petition under 37 CFR 1.182 is necessary for that purpose. Amendments to the specification may be entered by the primary examiner without petition so long as the amendment contains no new matter.[1] Obviously, in view of the incorporation by reference of the prior application, Figure 1h described in the specification is not new matter if it was a part of the disclosure of the prior application.

Accordingly, the petition is inappropriate and is subject to dismissal. As the petition was not due to an error on the part of the USPTO, the petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 22 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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] 37 CFR 1.121(b).

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P.O. Box 1450
Alexandria, VA 22313-1450
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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P.O. BOX 1967
MIDLAND, MI 48641-1967

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Garry E. Kiefer :
Application No. 10/278,558 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. 61981A :

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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 August 13, 2004. Accordingly, this application became abandoned on November 14, 2004.

The file is being forwarded to Technology Center 1600, for review of the amendment and terminal disclaimer, filed March 8, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-18-07 **Paper No.:** _____

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No. 6915031 B2 (10/278568)

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**.

Should drawings be entered as requested?

E M James

Certificates of Correction Branch

703-308-9390 ext. 116

J Sanks

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: _____

_____

_____

_____

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_____ _____

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-18-07

Paper No.: _____

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No. 6915031 B2 (10/278568)

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**.

Should drawings be enter as requested? Thanks

E M James
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: Drawing changes ok to enter. MC 11/26/07

SPE

Art Unit

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United States Patent and Trademark Office
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HOWARD M. COHN
SUITE 220
21625 CHAGRIN BLVD.
CLEVELAND, OH 44122

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JUL 3 0 2004

OFFICE OF PETITIONS

In re Application of
Paul J. Jurkovic et al
Application No. 10/278,569
Filed: October 23, 2002
Attorney Docket No. ELI-101US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed March 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 30, 2004.

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

This matter is being referred to Publishing Division.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 02/08/07

TO SPE OF : ART UNIT 3745

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.

☒ **Approved** All changes apply.

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

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

Comments:

Edward Look 3745

SPE: Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM C. ANDERSON
THE BOEING COMPANY
15460 LAGUNA CANYON ROAD, MC 1650-7009
IRVINE CA 92618

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MAY 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Dale V. Svenson et al. :
Application No. 10/278,571 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 01-521 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a response in a timely manner to the non-final Office action mailed May 22, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 23, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art unit 3623 for consideration of the amendment in due course.

Carl Friedman
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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APR 26 2005

Director's Office
Group 3700

Paper No.

Wayne J. Colton, Inc.
The Milam Building Suite 1032
115 East Travis Street
San Antonio, TX 78205

In re Application of
Delton R. Brown
Serial No. : 10/278,574
Filed : October 23, 2002
For : Gas Furnace Controller

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

This is a decision on petitioner's request filed December 3, 2004, to review the holding of abandonment mailed July 27, 2004 for failure to respond to the Office action mailed January 8, 2004. There is no fee required for this petition.

In support of the request, petitioner states that on May 10, 2004, an amendment along with a one-month extension of time request were filed in accordance with the procedures set forth in 37 CFR 1.8. The communication included a Certificate of First Class mailing dated May 10, 2004 (the 8th of May being a Saturday). Petitioner has provided a true copy of the May 10, 2004 communication.

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 March 10, 2004.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-03750

ak/4/25/05

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WASHINGTON, D.C. 20231
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DIW 03-03

Paper No. 7

COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE- RESTON TOWN CENTER
RESTON VA 20190-5061

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MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Black and Eimerl :
Application No. 10/278,582 : DECISION ACCORDING STATUS
Filed: 23 October, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. RTEC-002/00US :

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 20 February, 2003.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been mailed a copy of the application papers. Specifically, the declaration of facts of petitioners' registered patent attorney, Cliff Z. Liu, establishes that a copy of the application was both sent and hand-delivered to the non-signing inventor, Michael Black, but that Black orally refused to sign the declaration.

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

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

---

[1] A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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OIW 03-03

Michael Black
560 Trinidad Lane
Foster City, CA 94404

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MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of
Black et al.
Application No. 10/278,582
Filed: 23 October, 2002
For: DERMATOLOGICAL APPARATUS AND METHOD

Dear Mr. Black:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE- RESTON TOWN CENTER
RESTON VA 20190-5061

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LOUIS S. SORELL
GOODWIN PROCTER LLP
599 LEXINGTON AVE.
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Patent of :
Eriksen, et al. :
Patent No. 6,773,951 :
Issue Date: August 10, 2004 : Decision on Petition
Application No. 10/278,611 :
Filing Date: October 23, 2002 :
Attorney Docket No. 104874-142155 :

This is a decision on the petition under 37 C.F.R. § 1.183, filed March 16, 2005, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is also being treated as a request under 37 CFR 3.81(b) to accept the correction of the assignee data.

The petition under 37 CFR 1.183 is **dismissed as moot.**

The request under 37 CFR 3.81 is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

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

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and

(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Pursuant to petitioner's authorization, deposit account no. 06-0923 will be charged the required $130.00 processing fee and the $100.00 certificate of correction fee.

Petitioners have met the requirements set forth above. Therefore, the request is granted.

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

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

E. Shirene Willis
Petitions Attorney
Office of Petitions

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THE LAW OFFICE OF KIRK D. WILLIAMS
1234 S. OGDEN ST.
DENVER, CO 80210

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Vijay Rangarajan, et al. :
Application No. 10/278,623 :
Filed: October 23, 2002 :
Attorney Docket No. 21474 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 15, 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 March 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 Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 21, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 2664.

Sherry D. Brinkley
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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ALEXANDRIA, VA 22313-1450
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AUG 1 2 2004

OFFICE OF PETITIONS

KING & SPALDING LLP
191 PEACHTREE STREET, N.E.
ATLANTA, GA 30303-1763

In re Application of :
Mitch Barron, et al. :
Application No. 10/278,625 : DECISION GRANTING PETITION
Filed: October 23, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 58318.105002 :

This is a decision on the petition, filed July 26, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on February 7, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being referred to Technology Center Art Unit 3628 for examination in due course.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/30/06

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/278652** Patent No.: **7055642**

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: The changes are approved.

_____

_____

_____

_____

_____ 3618

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Thomas John Pounds	: DECISION ON REQUEST FOR
Patent Number	: 7595290	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/278,653	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **69** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 10

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

MAIL

MAR 1 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Kazuyuki Murata. :
Application No. 10/278,659 :
Filed: October 22, 2002 :
For: **DIGITAL COPIER WITH IMAGE SCANNER APPARATUS AND OFFLINE IMAGE DATA AND CONTROL DATA INTERFACE** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 22, 2002 (recently matched with this application) under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination (paper No. 6).

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 lacks a statement that all claims are directed to a single invention. The petition further lacks a statement that a pre-examination search was made with respect to the claim invention of the instant application. Petitioner states that searches were conducted for co-pending U.S. Applications Serial No. 09/624,955 on July 25, 2000 and Serial No. 09/625,675 filed on July 25, 2000". However, the co-pending U.S. Applications are not being considered for special status. It is the instant application and the corresponding claims which petitioner seeks special status. Therefore, the instant petition lacks satisfactory statements that satisfy items (3 and 4) above.

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.

The application is being forwarded to the group Central File and will await action in its regular turn.

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

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SHERRILL LAW OFFICES
4756 BANNING AVE
SUITE 212
WHITE BEAR LAKE MN 55110-3205

In re Application of :
MAYER, WILLIAM N. :
Application No.: 10/278662 : DECISION ON
Filing or 371(c) Date: 10/23/02 : PETITION
Attorney Docket Number: **MTS002USPTO1** :

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed July 14, 2008.

This is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed February 28, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext. 164.

For Kendrick Sprull
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 02-03

Paper No. 4

JAY B. JOHNSON, ESQ.
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
DALLAS TX 75201-2980

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FEB 1 0 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jan et al. :
Application No. 10/278,674 :
Filed: 22 October, 2002 :
Attorney Docket No. 073827.0106 :
(4WISTRON/020 :

This is a decision on the "Response to Notice of Omitted Items" filed on 13 January, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 22 October, 2002, with Figures 7, 8, and 9 described in the specification as a part of the original disclosure.

The petition is **dismissed**.

On 22 October, 2002, the application was filed.

On 26 November, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice" stating that the application had been accorded a filing date of 22 October, 2002, but that Figures 7, 8, and 9 described in the specification appeared to have been omitted from the application. A two (2) month period for reply was set.

In response, on 13 January, 2003, the present petition was filed, accompanied by three (3) sheets of drawings containing Figures 7, 8, and 9. Petitioners concede that Figures 7, 8, and 9 were omitted from the application as filed, but state that Figures 7, 8, and 9 described in the specification do not add new matter. Petitioners further state that the application claims benefit to a Taiwanese application filed with the original application

papers, and that the omitted drawings are contained within the Taiwanese priority document present on filing.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing Figures were deposited on 22 October, 2002, nor request the 13 January, 2003 (the date the missing Figures were supplied) filing date. Rather, petitioners simply state that the figures do not constitute new matter. Thus, the figures may only be filed by amendment. Amendments to the specification may be entered by the primary examiner without petition so long as the amendment contains no new matter.[1]

Further, a review of the Taiwanese priority document submitted on 22 October, 2002, reveals that the three sheets of drawings which appear to contain Figures 7, 8, and 9 located therein are not identical to the drawings filed on 13 January, 2003. Petitioners have further not provided a statement in accordance with 37 CFR 1.52(d) that the drawings supplied on 13 January, 2003, are an accurate English translation of the drawings contained in the Taiwanese priority document.

Accordingly, the petition is inappropriate and is subject to dismissal. Although petitioners state that they believe no fees are due, this paper was filed as a petition under 37 CFR 1.182,

[1] 37 CFR 1.121(b).

and, as the petition was not due to an error on the part of the USPTO, a petition fee of $130.00 will be charged to counsel's deposit account, No. 02-0384.

The application will be processed and examined using only the application papers present on the filing date of 22 October, 2002. The copy of Figures 7, 8, and 9 supplied with the present petition will not be processed or examined, but will be retained in the application file.

A preliminary amendment adding drawings of Figures 7, 8, and 9 should be filed prior to the first Office action on the merits. If a preliminary amendment is filed, it will be reviewed by the examiner for new matter.

Alternatively, petitioners may request that the application be accorded a filing date with the sheets containing Figures 7, 8, and 9 contained in the Taiwanese priority document present on filing as a part of the original disclosure. In this case, petitioners must supply an English translation of Figures 7, 8, and 9 **identical** to those contained in the priority document, and supply a statement that the translation is accurate.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 22 October, 2002, using only the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DALLAS, TX 75201-2980

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OFFICE OF PETITIONS

In re Application of :
Cheng-Geng Jan et al :
Application No. 10/278,674 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. 073827.0106 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed October 7, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 8, 2005.

Pursuant to petitioner's authorization, Deposit Account No. 02-0384 was charged a total of $3,230.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application, $1,400.00 for the issue fee, $300.00 for the publication fee, and $30.00 for ten (10) soft copies.

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

This matter is being referred to the Publishing Division.

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

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Commissioner for Patents
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DONALD W. MEEKER
#512
750 LA PLAYA
SAN FRANCISCO, CA 94121

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FEB 08 2006

OFFICE OF PETITIONS

In re Application of :
Richard Elden :
Application No. 10/278,692 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 2, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on May 3, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail 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 $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed January 20, 2006 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 3600, Art Unit 3618 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

cc: Donald W. Meeker, Patent Agent
924 East Ocean Front, #E
Newport Beach, CA 92661

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MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 04/20/2010

Applicant	: Craig E. Hampel	: DECISION ON REQUEST FOR
Patent Number	: 7668276	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/278,708	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2089** 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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LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE MA 02142

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Jonathan Wood et al :
Application No. 10/278,714 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. I00168.70071.US :

This is a decision on the petition, filed July 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 1723 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. _____

Date : July 12, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Jonathan Wood et al
Application No. :10/278,714
Filed :October 23, 2002

The above-identified application has been assigned Patent No. 6,919,028 and an issue date of July 19, 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 19, 2005:

"All reference to Patent No. 6,919,028 to Jonathan Wood et al of Massachusetts for PRODUCTION OF WATER FOR INJECTION USING REVERSE OSMOSIS appearing in the Official Gazette of July 19, 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/278,714	10/23/2002	Jonathan Wood	2002P86256US	7857

37462 7590 02/01/2008
LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

EXAMINER	
DRODGE, JOSEPH W	
ART UNIT	**PAPER NUMBER**
1797	

NOTIFICATION DATE	DELIVERY MODE
02/01/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ll-a.com
gengelson@ll-a.com

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wk

2-1-08

In re application of :
Jonathan Wood et al. :
Serial No. 10/278,714 : DECISION ON
Filed: October 23, 2002 : PETITION
For: PRODUCTION OF WATER FOR INJECTION :
USING REVERSE OSMOSIS :

This is a decision on the PETITION FOR APPOINTMENT OF NEW EXAMINER IN A DIFFERENT ART GROUP, filed November 30, 2007. Petitioner requests that the above-identified application be reassigned to a different examiner due to Applicant's assertion that the examiner has improperly applied a reference which has a filing date after the filing date of the present application contrary to United States Patent Law.

The file history of Application No. 10/278,714 has been reviewed. While the petitioner requests that the present application be reassigned, it is noted that the issues raises by the petitioner do not demonstrate any unfair bias or prejudice towards the applicants. See *In re Ovshinsky*, 24 USPQ2d 1241.

Petitioner is reminded that the remedy for improper rejections is appeal to the Board of Patent Appeals and Interferences (37 CFR 41.31) and the appeal for other improper examiner actions is petition (37 CFR 1.181(a)). These are adequate remedies to address petitioner's concerns of Examiner Drodge's actions during the examination of the present application.

The petition is **DENIED**.

Jacqueline M. Stone/wk

Jacqueline M. Stone
Director, Technology Center 1700
High Polymer Chemistry, Plastics,
Stock Materials and Compositions

LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

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Paper No. 5

PATRICK K. STEELE
STREETS & STEELE
13831 NORTHWEST FREEWAY, SUITE 355
HOUSTON, TX 77040

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MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Jean Buytaert et al :
Application No. 10/278,718 : NOTICE
Filed: October 23, 2002 :
Attorney Docket No. FRAN0004 :

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

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

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

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

This file is being forwarded to Technology Center 3600.

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

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OCT 20 2003

Director's Office
Group 3700

BRIAN ROFFE, ESQ.
11 SUNRISE PLAZA SUITE 303
BALLEY STREAM, NEW YORK 11580-6111

In re application of David S. Breed et al.	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/278721 Filed: October 23, 2002	:	

For: **DISCHARGE VALVE FOR AIRBAGS AND AIRBAGS INCLUDING THE SAME**

This is a decision on the petition filed on May 29, 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 is 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: 10/17/03

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PERKINS COIE LLP
PATENT-SEA
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SEATTLE, WA 98111-1247

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Luchiana Cinghita et al :
Application No. 10/278,722 : DECISION ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 320528006US2 :

This is a decision on the petition, filed May 12, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before February 17, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed November 17, 2008.

Petitioner asserts that the Notice dated November 17, 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 nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2455 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of November 17, 2008. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Irvin Dingle
Petitions Examiner
Office of Petitions

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HAYNES BEFFEL & WOLFELD LLP
PO BOX 366
HALF MOON BAY CA 94019

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FEB 16 2010

In re Patent No. 6,986,764 :
Issue Date: January 17, 2006 :
Application No. 10/278,723 : NOTICE
Filed: October 23, 2002 :
Attorney Docket No. LSCP 1002-3 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 received on November 19, 2009.

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

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

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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HOLLINGSWORTH & FUNK, LLC
8009 34TH AVE S.
SUITE 125
MINNEAPOLIS MN 55425

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OFFICE OF PETITIONS

In re Application of	:	
Meyer et al.	:	
Application No. 10/278,732	:	ON PETITION
Filed: October 23, 2002	:	
Attorney Docket No. GUID.044PA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 25, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

In re Patent No. 7,006,661 :
Issue Date: February 28, 2006 :
Application No. 10/278,742 : ON PETITION
Filed: October 21, 2002 :
Attorney Docket No. P0702 :

This is a decision on the petition filed September 21, 2006, 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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Alexandria, VA 22313-1450
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MAR - 5 2004

BRET E. FIELD
BOZICEVIC, FIELD & FRANCIS, LLP
200 MIDDLEFIELD ROAD, SUITE 200
MENLO PARK, CA 94025

In re Application of	:
William H. Andrews et al	:
Serial No.: 10/278,743	: STATUS LETTER
Filed: October 21, 2002	:
Attorney Docket No.: SIER-001CIP	:

This is in response to applicants' attorneys' request, filed December 22, 2003, to withdraw from representation in the above identified application.

§ 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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Alexandria, VA 22313-1450
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MAR - 5 2004

BRET E. FIELD
BOZICEVIC, FIELD & FRANCIS, LLP
200 MIDDLEFIELD ROAD, SUITE 200
MENLO PARK, CA 94025

In re Application of	:	
William H. Andrews et al	:	
Serial No.: 10/278,744	:	STATUS LETTER
Filed: October 21, 2002	:	
Attorney Docket No.: SIER-002CIP	:	

This is in response to applicants' attorneys' request, filed December 22, 2003, to withdraw from representation in the above identified application.

§ 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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JUN 0 8 2006

OFFICE OF PETITIONS

In re Application of
Ronald N. Zuckermann et al.
Application No. 10/278,751
Filed: October 22, 2002
Attorney Docket No. 1218.104

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND 37 CFR 1.78(a)(6)
:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the

relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Frances Hicks/

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Ronald N. Zuckermann et al.
Application No. 10/278,751
Filed: October 22, 2002
Attorney Docket No. 1218.104

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND 37 CFR 1.78(a)(6)
:

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and (iii) and 1.78(a)(5)(i) and (iii) 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 information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of th 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).

A petition under 37 CFR 1.78 was filed April 14, 2006 and dismissed in a decision mailed July 25, 2006 because the amendment submitted with the petition was unacceptable and, therefore, could not be considered a proper reference under 37 CFR 1.78(a)(2)(i).

Comes now petitioner with the instant renewed petition and amendment. The amendment still does not comply with item (1).

The amendment filed March 3, 2006 properly incorporated by reference priority to provisional Application No. 60/023,867; however, with the instant renewed petition, the language is changed such that the amendment improperly incorporates by reference all of the new references.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of
Ronald N. Zuckermann et al.
Application No. 10/278,751
Filed: October 22, 2002
Attorney Docket No. 1218.104

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND 37 CFR 1.78(a)(6)
:

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 23, 2007 and supplemented December 20, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120, and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet (ADS) and amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of th 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).

A petition under 37 CFR 1.78 was filed March 3, 2006 and dismissed in a decision mailed June 8, 2006 because the amendment submitted with the petition was unacceptable and,

therefore, could not be considered a proper reference under 37 CFR 1.78(a)(2)(i). A renewed petition was filed June 20, 2006 and was dismissed in a decision mailed December 29, 2006 because the amendment included an improper incorporation by reference statement.

Comes now petitioner with the instant renewed petition.

The Application Data Sheet filed with the instant renewed petition is not in compliance with 37 CFR 1.76. The requirement is that the Application Data Sheet be a "Supplemental Application Data Sheet" and be signed. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Nonetheless, upon further consideration, it is determined that the amendment filed December 20, 2007 will be accepted.

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1633 for appropriate action on the amendment submitted December 20, 2007, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 119(e) for the benefit of priority to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/278,751	10/22/2002	1633	1210	1218.104	29	5

CONFIRMATION NO. 8574

CORRECTED FILING RECEIPT

Novartis Vaccines and Diagnostics, Inc.
Intellectual Property
P.O. Box 8097
Emeryville, CA 94662-8097

Date Mailed: 01/07/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ronald N. Zuckermann, Berkeley, CA;
Nathalie Dubois-Stringfellow, Berkeley, CA;
Varavani Dwarki, Alameda, CA;
Michael A. Innis, Moraga, CA;
John E. Murphy, Oakland, CA;
Fred E. Cohen, San Francisco, CA;
Tetsuo Uno, San Francisco, CA;

Power of Attorney:
Steven Collier--42429

Domestic Priority data as claimed by applicant

This application is a CON of 09/620,925 07/21/2000 PAT 6,468,986
which is a DIV of 08/910,647 08/13/1997 PAT 6,251,433
which claims benefit of 60/023,867 08/13/1996

Foreign Applications
UNITED STATES OF AMERICA PCT/US97/14465 08/13/1997

If Required, Foreign Filing License Granted: 11/26/2002
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/278,751**
Projected Publication Date: Not Applicable
Non-Publication Request: No

Early Publication Request: No
Title

Compositions and methods for polynucleotide delivery

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 7

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

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Graham et al.
Application No.10/278,763
Filed: October 21, 2002
Attorney Docket Number: 390072.401

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed February 25, 2003.

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

The above-identified application was filed on October 21, 2002, without an executed oath or declaration, and naming Brian Graham and Peter Davis as the inventors. Accordingly, on November 25, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit for the purposes of this decision an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed a one (1) month extension of time, the instant petition and fee and the surcharge for late filing of the declaration. Accompanying the petition is a declaration from E. Russell Tarleton, assignment documents and a copy of correspondence mailed to Thomas Gillman, the legal representative of the inventors.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide items (2) and (5).

As to item (2), rule 47 applicant submitted the $65 surcharge fee for the submission of a late oath or declaration, Applicant failed to submit an executed oath or declaration with the petition. The granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

Although rule 47 applicant provided the last known addresses of the non-signing inventors in the petition, the addresses must also be provided in the declaration. See 37 CFR 1.63 (c)(1).

As to item (5), proprietary interest is usually found by establishing a) the invention has been assigned to 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. See MPEP 409.03(f). The assignment documents provided with the petition do not establish a clear chain of title. While rule 47 applicant has provided evidence that Speaklink, Inc. assigned their purported interest in the above-identified application to gh, LLC. Rule 47 applicant has failed to establish inventors Graham and Davis assigned their interest to Speaklink, LLC. Rule 47 applicant should provide any documentation that establishes the inventors assigned their interest to Speaklink, LLC.

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

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

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

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JUL 22 2003

OFFICE OF PETITIONS

In re Application of
Brian Graham and Davis Peter
Application No.10/278,763
Filed: October 21, 2002
Attorney Docket Number: 390072.401
Title of Invention: CONTENT INDEPENDENT DOCUMENT NAVIGATION SYSTEM AND METHOD

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition for status under 37 C.F.R. §1.47(b), filed June 13, 2003.

The petition is **GRANTED**.

The above-identified application was filed on October 21, 2002, and naming Brian Graham and Davis Peter as co- inventors. The declaration filed was not executed by either inventor. Accordingly, on November 25, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit for the purposes of this decision an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply. A petition under 37 CFR 1.47(b) was dismissed on March 14, 2003.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventors have been presented with a copy of the application papers for signature and that they have refused by their conduct to sign the declaration. Applicant submitted the declaration of Daniel Cravens, Vice President of Development of gh LLC applicant corporation. The declaration in conjunction with the application data sheet have been reviewed and are found in compliance with 37 CFR 1.63, 1.64 and 1.76. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. The employment agreement establishes the applicant's proprietary interest in the application.

This application is hereby accorded Rule 1.47(b) status.

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

---

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

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

Telephone inquiries regarding this decision 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
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Brian Graham
920 Northeast 63rd Street
Apt. 101
Seattle, Washington 98115

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JUL 22 2003

OFFICE OF PETITIONS

In re Application of
Brian Graham and Davis Peter
Application No.10/278,763
Filed: October 21, 2002
Attorney Docket Number: 390072.401
Title of Invention: CONTENT INDEPENDENT DOCUMENT NAVIGATION SYSTEM AND METHOD

LETTER

Dear Mr. Graham:

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). 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.

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

E. RUSSELL TARLETON
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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

Peter Davis
600 West Olympic Place, Apt 101
Seattle, Washington 98119

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JUL 22 2003

OFFICE OF PETITIONS

In re Application of
Brian Graham and Davis Peter
Application No.10/278,763
Filed: October 21, 2002
Attorney Docket Number: 390072.401
Title of Invention: CONTENT INDEPENDENT DOCUMENT NAVIGATION SYSTEM AND METHOD

LETTER

Dear Mr. Davis:

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). 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.

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

E. RUSSELL TARLETON
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/29/2008

TO SPE OF : ART UNIT 1600 (1618)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,105,566

Attn: Vickie Kim

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 changes to formulas in claims 1 and 11 as req. in COCIN?**

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.

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

Comments:

APPROVED
By vkim at 10:57 am, Jun 03, 2008

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 28 2004

#5

SMYRSKI & LIVESAY, LLP
3310 AIRPORT AVENUE, SW
SANTA MONICA CA 90405

In re Application of :
Kenneth E. Kadziauskas et al :
Serial No.: 10/278,775 : DECISION ON PETITION
Filed: October 21, 2002 :
For: Novel Enhanced Microburst :
Ultrasonic Power Delivery System and Method

This is in response to the petition applicant filed on December 23, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VOLENTINE FRANCOS, & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

COPY MAILED

MAR 1 4 2007

OFFICE OF PETITIONS

In re Application of :
Kiyohiko Yamazaki :
Application No. 10/278790 :
Filing or 371(c) Date: 10/24/2002 :
Attorney Docket Number: :
OKI.421 : ON PETITION

This is a decision on the "Petition Under 37 C.F.R. 1.181 to Withdraw Holding of Abandonment and Request Remailing of Office Action", filed November 8, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 6, 2005. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on March 7, 2006. A Notice of Abandonment was mailed October 10, 2006.

With the instant petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2611 for re-mailing of the Office communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 20 2008

FitzPatrick, Cella,Harper, & Scinto
30 Pockefeller Plaza
New York, New York 10112-3801

In re Application of :
Nagano :
Application No. 10/278,808 : DECISION GRANTING PETITION
Patent No. 7095441 B2 :
Filed: Oct. 24, 2006 :

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed on October 23, 2006 requesting that the Office adjust the PTA determination at the time of the mailing of the Notice of Allowance from 575 days to 678 days.

Applicants' petition to correct PTA is **GRANTED.**. The Office will adjust the PTA at the time of the mailing of the issuance of the patent to reflect a determination of SIX HUNDRED AND SEVENTY-EIGHT (678) DAYS

Applicant argues that the Office erred in the calculations of the PTA. Applicants argue that the 116 days of reduction after the mail date of the notice of allowance is improper. Applicants assert that the delay should be limited to 16 days, beginning on April 26, 2006 and ending on May 11, 2006. Applicants assert that the delay should have ended on May 11, 2006 because that is the date that the Office mailed a response to the 312 amendment. In addition, applicants assert that the drawings submitted with the 312 amendment were simply a resubmission of the early corrected drawings and should not have been considered a failure to engage in reasonable efforts to conclude prosecution of the application.

Applicant arguments as are persuasive. The Office need not look into the merits of applicants assertion as to the drawings because assuming *arguendo* that the drawings were not re-submission but actually corrected drawings the outcome would remain the same. Specifically, it is noted that the Office response submitted on May 11, 2006 acknowledges the drawings and thus even if such drawings were not re-submission, the reduction still would be limited to the time period of April 26, 2006 until May 11, 2006. As for the 312-amendment, it is noted that the Office responded to such notice on May 11, 2006. Accordingly, the reductions should be for a period of 16 days rather than 119 days. Accordingly, the overall determination is 678 days.

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the patent. Any delays pursuant to 37 CFR 1.702(b) or 1.702(a)(4) will be reflected in the issue notification letter that is mailed to applicant approximately three weeks prior to issuance of the application.

Application No. 10/278,808

The Office has assessed the $200.00 fee. No additional fees are required in deciding this petition matter.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

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

cc: Copy of Adjusted Pair Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT	:	7,095,441 B2
DATED	:	August 22, 2006
INVENTOR(S)	:	Nagano

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 (575) days

Delete the phrase "by 575 days" and insert – by 678 days--

Day : Monday
Date: 3/17/2008

PALM INTRANET

Time: 15:39:06

PTA Calculations for Application: 10/278808			
Application Filing Date:	10/24/2002	PTO Delay (PTO):	694
Issue Date of Patent:	08/22/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	119
Post-Issue Petitions:	0	Total PTA (days):	678
PTO Delay Adjustment:	103		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
42	03/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	103		
39.5	08/02/2006	PTA 36 MONTHS			
39	08/22/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
38	05/19/2006	EXPORT TO FINAL DATA CAPTURE			
37	05/16/2006	FINISHED INITIAL DATA CAPTURE			
36	05/18/2006	DISPATCH TO FDC			
35	05/18/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
34	04/26/2006	ISSUE FEE PAYMENT VERIFIED			
33	05/11/2006	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
32	05/10/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
31	04/26/2006	RESPONSE TO REASONS FOR ALLOWANCE			
30	04/26/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	33
29	04/26/2006	WORKFLOW - DRAWINGS FINISHED		0	33
28	04/26/2006	WORKFLOW - DRAWINGS FINISHED		119	33
27	04/26/2006	ISSUE FEE PAYMENT RECEIVED			
25	04/07/2006	EXPORT TO INITIAL DATA CAPTURE			
24	04/05/2006	MAIL NOTICE OF ALLOWANCE			
23	04/05/2006	MAIL FORMAL DRAWINGS REQUIRED			
22	04/05/2006	MAIL EXAMINER'S AMENDMENT			
21	04/03/2006	ISSUE REVISION COMPLETED			
20	04/03/2006	EXAMINER'S AMENDMENT COMMUNICATION			
19	04/03/2006	FORMAL DRAWINGS REQUIRED			
18	04/03/2006	NOTICE OF ALLOWANCE DATA VERIFICATION			

		COMPLETED			
17	04/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	04/03/2006	NOTICE OF ALLOWABILITY			
15	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	02/27/2006	DATE FORWARDED TO EXAMINER			
13	02/17/2006	RESPONSE AFTER NON-FINAL ACTION			
12	11/17/2005	MAIL NON-FINAL REJECTION	694		-1
11	11/14/2005	NON-FINAL REJECTION			
10	01/02/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
9	10/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	04/09/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
7	01/02/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6	01/02/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	03/24/2003	CASE DOCKETED TO EXAMINER IN GAU			
4	11/26/2002	APPLICATION DISPATCHED FROM OIPE			
3	11/22/2002	APPLICATION IS NOW COMPLETE			
2	10/30/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/24/2002	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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Paper No. 7

JC973 U.S. PTO
10/278828
10/22/02

RECEIVED
JUL 11 2002
GRAY CARY
WARE & FREIDENRICH

GRAY CARY WARE AND FREIDENRICH
139 TOWNSEND ST
SUITE 400
SAN FRANCISCO CA 94107-1922

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JUL 05 2002
OFFICE OF PETITIONS

In re Application of
Guilfoyle, et al.
Application No. 09/867,718
Filed: May 29, 2001
Attorney Docket No. 2101268-990701

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed June 17, 2002.

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

The above-identified application was filed on May 29, 2001. On August 2, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on January 23, 2002.[1] However, this petition was dismissed in a decision mailed on April 17, 2002. Petitioner was not successful in demonstrating that the non-signing inventor could not be reached or refused to sign the oath or declaration. In addition, petitioner failed to submit a declaration in compliance with 37 CFR 1.63, as the declaration did not identify the citizenship or mailing address of inventor Ko.

In reply, applicant filed the instant request for reconsideration. Accompanying the instant request for reconsideration were: (1) a declaration in compliance with 37 CFR 1.63; (2) a supplemental statement of Gerald T. Sekimura, including copies of e-mail correspondence between Sekimura and Evans; and (3) a statement of Peter Guilfoyle, including copies of confidentiality and work agreements between Evans and Opticomp.

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

The instant request for reconsideration, together with the earlier petition filed on January 23, 2002, have demonstrated that Evans has

---

[1] This petition was made timely by obtaining a three month extension of time and including a Certificate of Mailing dated January 2, 2002.

DOCKETED

effectively refused to sign the declaration in the above-identified application. Going back as far as October of 2001, numerous communications have been directed to Evans to ascertain whether he would review the application and sign the declaration.[2] As of the date of the request for reconsideration, no clear answer from Evans has yet to be received.

The declaration (filed January 23, 2002 and June 17, 2002) and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

The application file is being returned to the Office of Initial Patent Examination for continuation of pre-examination processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

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

[2] The initial communications with Evans were made to his earlier counsel, attorney Robert Groover.

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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OIPE JC109 JAN 21 2003 PATENT & TRADEMARK OFFICE

Paper No. 7

GRAY CARY WARE AND FREIDENRICH
139 TOWNSEND ST
SUITE 400
SAN FRANCISCO CA 94107-1922

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JUL 11 2002
GRAY CARY
WARE & FREIDENRICH

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JUL 05 2002
OFFICE OF PETITIONS

In re Application of :
Guilfoyle, et al. :
Application No. 09/867,718 : DECISION ACCORDING STATUS
Filed: May 29, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 2101268-990701 :

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed June 17, 2002.

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

The above-identified application was filed on May 29, 2001. On August 2, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on January 23, 2002.[1] However, this petition was dismissed in a decision mailed on April 17, 2002. Petitioner was not successful in demonstrating that the non-signing inventor could not be reached or refused to sign the oath or declaration. In addition, petitioner failed to submit a declaration in compliance with 37 CFR 1.63, as the declaration did not identify the citizenship or mailing address of inventor Ko.

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

The instant request for reconsideration, together with the earlier petition filed on January 23, 2002, have demonstrated that Evans has

[1] This petition was made timely by obtaining a three month extension of time and including a Certificate of Mailing dated January 2, 2002.

DOCKETED

effectively refused to sign the declaration in the above-identified application. Going back as far as October of 2001, numerous communications have been directed to Evans to ascertain whether he would review the application and sign the declaration.[2] As of the date of the request for reconsideration, no clear answer from Evans has yet to be received.

The declaration (filed January 23, 2002 and June 17, 2002) and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

The application file is being returned to the Office of Initial Patent Examination for continuation of pre-examination processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

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

---

[2] The initial communications with Evans were made to his earlier counsel, attorney Robert Groover.

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 07/02/2010

Applicant	: Johan Ghislain Deleu	: DECISION ON REQUEST FOR
Patent Number	: 7650417	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/278,842	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2108** 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

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

MAILED

APR 06 2010

OFFICE OF PETITIONS

In re Patent No. 7,044,905 :
Issue Date: May 16, 2006 :
Application No. 10/278,847 : NOTICE
Filed: October 24, 2002 :
Attorney Docket No. 10931-0008-01 :

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because a proper itemization has not been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The deficiency payment submitted January 21, 2010, is acknowledged, however, does not include a proper itemization of the three and one half year maintenance fee, as indicated above.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

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

COPY MAILED

JAN 11 2008

OFFICE OF PETITIONS

In re Patent No. 7,212,851 :
Issue Date: May 1, 2007 :
Application No. 10/278,853 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. 8790.0004-00 :

This is a decision on the petition filed September 6, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to add an 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 application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

COPY MAILED

SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/278,855 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. 0756-7055 :

This is a decision on the petition, filed August 31, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2811 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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P.O. Box 1450
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PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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JUL 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki, et al.	:	
Application No. 10/278,855	:	DECISION GRANTING PETITION
Filed: October 24, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7055	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 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 June 20, 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 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

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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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United States Patent and Trademark Office
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DEC 31 2008
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BY: pm 7/21/08

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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JUL 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki, et al.	:	
Application No. 10/278,855	:	DECISION GRANTING PETITION
Filed: October 24, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7055	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 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 June 20, 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 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

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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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DEC 31 2008
PATENT & TRADEMARK OFFICE

Attorney Docket No. 0756-7055

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	)	Confirmation No. 1472
Shunpei YAMAZAKI et al.	)	Group Art Unit: 2811
Serial No. 10/278,855	)	Examiner: Cuong Nguyen
Filed: October 24, 2002	)	
For: LIGHT EMITTING DEVICE	)	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 30, 2008.

LETTER REGARDING PAYMENT OF ISSUE FEE

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

Dear Sir:

It is respectfully requested that the Issue Fee paid on June 18, 2008 be applied towards the current Issue Fee due December 30, 2008. Also, attached is the new Issue Fee Transmittal Form PTOL-85, along with a copy of the Petition granting the Withdrawal from Issue indicating that the Issue Fee may be reapplied in this matter. Further, a payment in the amount of $70.00 is also submitted herewith which represents the fee increase.

Respectfully submitted,

Eric J. Robinson
Reg. No. 38,285

Robinson Intellectual Property Law Office, P.C.
PMB 955
21010 Southbank Street
Potomac Falls, Virginia 20165
(571) 434-6789

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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POSZ LAW GROUP PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

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SEP 27 2006

OFFICE OF PETITIONS

In re Patent No. 6,907,916 :
Issue Date: June 21, 2005 :
Application No. 10/278,857 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. VXO22493 :

This is a decision on the request under 37 CFR 3.81(b), filed May 4, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

There is no indication that a check in the amount of $100 was ever processed for the Certificate of Correction. Accordingly, as authorized, the $100 Certificate of Correction fee will be charged to petitioner's deposit account.

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) 272-3218. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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VARNDELL & VARNDELL
106-A.S. COLUMBUS ST.
ALEXANDRIA, VA 22314

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JUL 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Masayoshi Mototani et al :
Application No. 10/278,860 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. VX022492 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 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/publication fee and formal drawings in a timely manner in reply to the Notice of Allowance and Notice of Allowability mailed February 26, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 27, 2004.

The formal drawings filed on June 3, 2004 have been approved by the Drafting Branch.

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

The application file is being forwarded to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIW Oct-06

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OCT 3 0 2006
OFFICE OF PETITIONS

In re Patent No. 7,060,370 :
Issued: 13 June, 2006 :
Application No. 10/278,866 : ON PETITION
Filed: 24 October, 2002 :
Atty Docket No. 1666.1003 :

This is a decision in reference to the petition filed on 18 July, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

It is noted that petitioner submitted a petition fee of $400 although only a processing fee of $130 (and the certificate of correction fee of $100) is due. The overpayment will be credited to counsel's deposit account.

The address on the petition is different from the correspondence address. A copy of this decision will be forwarded to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: BIRCH, STEWART, KOLASCH & BIRCH LLP
8110 GATEHOUSE ROAD
P.O. BOX 747
FALLS CHURCH VA 22040-0747

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

APR 9 2003

#4

PATTERSON, THUENTE, SKAAR & CHRISTEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

In re Application of	:	
Unvert et al	:	
Serial No.: 10/278,874	:	DECISION ON
Filed: October 23, 2002	:	PETITON TO MAKE SPECIAL
For: Leg Tanning Apparatus	:	

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

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Oblon, Spivak, McClelland, Maier & Neustadt, P. C.
1940 Duke Street
Alexandria, VA 22314

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,941,283 :
Issue Date: September 6, 2005 :
Application No. 10/278,879 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. 228436US2SRD DIV :

This is a decision on the petition filed October 4, 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
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
DW 04-03

Paper No. 5

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

COPY MAILED

APR 16 2003

OFFICE OF PETITIONS

In re Application of :
Kujirai, Moniwa, Nakazato, Kisu, : DECISION REFUSING STATUS
Matsuoka, Tabata, and Haga : UNDER 37 CFR 1.47(a)
Application No. 10/278,918 :
Filed: 24 October, 2002 :
Atty Docket No. 843.42177X00 :

This is in response to the petition filed under 37 CFR 1.47(a) on 10 February, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 24 October, 2002, without an executed oath or declaration. Accordingly, on 9 December, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on 10 February, 2003, petitioners filed the present petition, along the petition fee and surcharge and a declaration naming Hiroshi Kujirai, Masahiro Moniwa, Kazuo Nakazato, Teruaki Kisu, Hideyuki Matsuoka, Tsuyoshi Tabata, and Satoru Haga as joint inventors and signed by joint inventors Kujirai, Moniwa, Nakazato, and Teruo and Haruko Kisu as legal representatives for deceased inventor Teruaki Kisu, Matsuoka, and Tabata on behalf of themselves and joint inventor Haga.

Petitioners state that a letter including the declaration and an assignment was sent to joint inventor Haga's last known address,

but that he did not return a signed declaration. An additional letter was sent, but returned as undelivered by the Japanese post office.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1).

In regards to item (1), petitioners have not provided proof that Taylor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] The showing of record is that although the declaration was sent to non-signing inventor Haga, the application papers were never sent to him. Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office,

---

[1] MPEP 409.03(d).

petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

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

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

OR (after 1 May, 2003)[2]

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2]Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DW 08-03

Paper No. 8

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

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AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of	:
Kujirai, Moniwa, Nakazato, Kisu,	: DECISION ACCORDING STATUS
Matsuoka, Tabata, and Haga	: UNDER 37 CFR 1.47(a)
Application No. 10/278,918	:
Filed: 24 October, 2002	:
Atty Docket No. 843.42177X00	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 12 August, 2003.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been mailed a copy of the application papers. Specifically, petitioners have established, via the declaration of Yoshitsugu Harada, that a copy of the application was sent to the non-signing inventor, Satoru Haga, on two occasions. The papers were returned as undeliverable after being sent the first time, and the inventor did not return an executed declaration after the papers were sent a second time.

In accepting this declaration, the Office is construing the declaration of Mr. Harada to mean that the application papers were sent on 5 June, 2003, to the last known address of joint inventor Haga. Petitioners **must** inform the Office if this is an incorrect interpretation.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
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
OIW 08-03

Satoru Haga
Daiichi-Sotrk-Mansion 103, 2 5-9,
Midoricho 4-chome, Akishima-shi
Tokyo 196-0004
JAPAN

COPY MAILED

AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of
Kujirai et al.
Application No. 10/278,918
Filed: 24 October, 2002
For: METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE AND SEMICONDUCTOR DEVICE

Dear Mr. Haga:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ANTONELLI TERRY SOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/15/07

Paper No.: _____

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/278980 Patent No.: 7153649

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Col. 2, line 9, correction not needed. Col. 8, line 25, should delete "IN" and replace with "in". Col. 11, line 25, should read, Col. 13, line 29, since that is where correction is. Col. 14, line 39, delete, "requirement reduction" ~~insert~~ insert "requirement; reduction".

Teresa McKelvey

TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1655
Art Unit

MODIFIED PTO/SB/44 (04-05)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,153,649
APPLICATION NO.	:	10/278,920
DATED	:	12/26/2006
INVENTOR(S)	:	Eldon R. SMITH; Guillermo TORRE-AMIONE

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

In the Abstract, line 2, please replace "patents" with –patients--

Column 2, line 9, please replace "TNF-a." with --TNF-α,-- not true.

Column 2, line 18, please replace "dassification" with --classification--

Column 3, line 26, please replace "occasion" with --occlusion--

Column 3, line 53, please replace "In" with --in--

Column 3, line 59, please replace "In" with --in--

Column 3, line 63, please replace "TNF-β" with --TNF-α--

Column 3, line 66, please replace "TNF-β" with --TNF-α--

Column 4, line 55, please replace "Plasma." with --plasma,--

Column 4, line 61, please replace "tion." with --tion,--

Column 5, line 1, please replace "In" with --in--

Column 5, line 5, please replace "subject" with –subject.–

Column 5, line 29, please replace "au" with –all--

Column 6, line 33, please replace "set" with –set.--

Column 7, line 44, please replace "rabbits." with --rabbits,--

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,153,649
APPLICATION NO.	:	10/278,920
DATED	:	12/26/2006
INVENTOR(S)	:	Eldon R. SMITH; Guillermo TORRE-AMIONE

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

Column 7, line 61, please replace "C.:" with --C.;--

Column 8, line 25, please replace "in" with --In-- That's what's there I'm, needs to go to in.

Column 8, line 35, please replace "Involved" with --involved--

Column 8, line 42, please replace "42.5° C.;" with --42.5° C. ± 1.0° C;-- check

Column 8, line 57, please replace "(LOF)" with --(LDF)--

Column 8, line 59, please replace "In" with –in--

Column 9, line 10, please replace "Is" with --is--

Column 9, line 44, please replace "Into" with --into--

Column 10, line 13, please replace ", and the" with --, and the results are presented below in Table 1. check.

Column 11, line 39, please replace "1989." with --1989,--

Column 12, line 12, please replace "p = 445" with --p = 0.445-- check.

Column 12, line 27, please replace "reconditioning" with --pre-conditioning-- check.

Column 13, line 4, please replace "electrophoresis." --with electrophoresis,--

Column 13, line 16, please replace "non-IR" with --non-I/R-- check.

Column 13, line 21, please replace "dearly" with –clearly--

col. 13. Column 11, line 25, please replace "tine" with --time-- check

Column 13, line 35, please replace "dear" with --clear-- check.

Column 14, line 3, please replace "The 30 treatment" with --The treatment-- check.

Column 14, line 10, please replace "treatment 2." with –treatment. 2.--

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,153,649

APPLICATION NO. : 10/278,920

DATED : 12/26/2006

INVENTOR(S) : Eldon R. SMITH; Guillermo TORRE-AMIONE

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

Column 14, line 23, please replace "mL" with --ml--

Column 14, line 27, please replace "In" with --in--

Column 14, line 39, please replace "requirement reduction" with --~~requirements~~ requirement reduction--.

Column 14, line 48, please replace "Increasing" with --increasing--

Column 14, line 55, please replace "briging" with --bringing--

Column 14, line 55, please replace "ant" with --anti--

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Eldon R. SMITH et al.

Title: TREATMENT OF CONGESTIVE HEART FAILURE

Patent. No.: 7,153,649

Issue Date: 12/26/2006

Examiner: Michael V. Meller

Art Unit: 1655

Confirmation Number: 9392

REQUEST FOR CERTIFICATE OF CORRECTION FOR PTO MISTAKE PURSUANT TO 37 C.F.R. § 1.322(a)

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

Sir:

Enclosed is a Certificate of Correction, Form PTO-1050, for United States Patent Number 7,153,649 issued December 26, 2006. The following Patent Office printing errors appear in the issued patent:

IN THE ABSTRACT AND THE SPECIFICATION

The exact column and line number where the errors in the issued patent are listed below:

Column & Line No.	Incorrect	Correct
Abstract, line 2	patents	patients
Column 2, line 9	TNF-a.	TNF-α,
Column 2, line 18	dassification	classification
Column 3, line 26	occasion	occlusion
Column 3, line 53	In	in
Column 3, line 59	In	in
Column 3, line 63	TNF-β	TNF-α
Column 3, line 66	TNF-β	TNF-α
Column 4, line 55	plasma.	plasma,
Column 4, line 61	tion.	tion,
Column 5, line 1	In	in
Column 5, line 5	subject	subject.
Column 5, line 29	au	all
Column 6, line 33	set	set.
Column 7, line 44	rabbits.	rabbits,
Column 7, line 61	C.:	C.;
Column 8, line 25	In	in
Column 8, line 35	Involved	involved
Column 8, line 42	42.5° C.;	42.5° C. ± 1.0° C;
Column 8, line 57	(LOF)	(LDF)
Column 8, line 59	In	in
Column 9, line 10	Is	is
Column 9, line 44	Into	into
Column 10, line 13	, and the	, and the results are presented below in Table 1.
Column 11, line 39	1989.	1989,
Column 12, line 12	p = 445	p = 0.445
Column 12, line 27	reconditioning	pre-conditioning
Column 13, line 4	electrophoresis.	electrophoresis,
Column 13, line 16	non-IR	non-I/R
Column 13, line 21	dearly	clearly
Column 13, line 25	tine	time
Column 13, line 35	dear	clear
Column 14, line 3	The 30 treatment	The treatment
Column 14, line 10	treatment 2.	treatment. 2.
Column 14, line 23	mL	ml
Column 14, line 27	In	in
Column 14, line 39	requirement reduction	requirement;
Column 14, line 48	Increasing	increasing
Column 14, line 55	briging	bringing
Column 14, line 55	ant-	anti

Applicant submits that the above changes would not constitute new matter, and correction thereof would not require reexamination.

Pursuant to 37 C.F.R. §1.322, Applicant requests that the enclosed Certificate of Correction be approved.

Although Applicant believes that no fee is required for this Request, the Commissioner is hereby authorized to charge any additional fees which may be required for this Request to Deposit Account No. 19-0741.

Respectfully submitted,

Date 6-14-07

By _____

FOLEY & LARDNER LLP
Customer Number: 38706
Telephone: (650) 251-1103
Facsimile: (650) 856-3710

Gerald F. Swiss
Attorney for Applicant
Registration No. 30,113

US007153649B2

(12) **United States Patent**
Smith et al.

(10) **Patent No.: US 7,153,649 B2**
(45) **Date of Patent: *Dec. 26, 2006**

(54) **TREATMENT OF CONGESTIVE HEART FAILURE**

(75) Inventors: **Eldon R. Smith**, Calgary (CA); **Guillermo Torre-Amione**, Bellaire, TX (US)

(73) Assignee: **Vasogen Ireland Limited** (IE)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 418 days.

This patent is subject to a terminal disclaimer.

(21) Appl. No.: **10/278,920**

(22) Filed: **Oct. 24, 2002**

(65) **Prior Publication Data**

US 2003/0044390 A1 Mar. 6, 2003

Related U.S. Application Data

(63) Continuation of application No. 09/760,600, filed on Jan. 17, 2001, now Pat. No. 6,572,895.

(30) **Foreign Application Priority Data**

Jan. 18, 2000 (CA) 2296997

(51) **Int. Cl.**
A01N 1/02 (2006.01)

(52) **U.S. Cl.** **435/2**
(58) **Field of Classification Search** 435/2
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

5,591,457	A	1/1997	Bolton	
5,834,030	A	11/1998	Bolton	
6,037,346	A	3/2000	Doherty, Jr. et al.	
6,136,308	A	10/2000	Tremblay et al.	
6,572,895	B1 *	6/2003	Smith et al.	424/529

FOREIGN PATENT DOCUMENTS

WO	WO 99/13890	3/1999
WO	WO 00/67764	11/2000

OTHER PUBLICATIONS

Cooke, E.D., et al. "Treatment of severe Raynaud's syndrome by injection of autologous blood pretreated by heating, ozonation and exposure to ultraviolet light (H–O–U) therapy." *International Angiology*. 16(4): 250–254 (1997).

Dibbs, Z., et al. "Cytokines in Heart Failure: Pathogenetic Mechanisms and Potential Treatment." *Proceedings of the Association of American Physicians*. 111(5): 423–428 (1999).

Ganelina, I.E., et al. "Therapy of Severe Steno Cardias by UV Irradiation of the Blood and Some Action Mechanisms of this Therapy." *Folia Haematologica*. 109(3): 470–482 (1982).

Mann, D.L., et al. "Mechanisms and Models in Heart Failure: A Combinatorial Approach." *Circulation*. 100: 999–1008 (1999).

* cited by examiner

Primary Examiner—Michael Meller
(74) *Attorney, Agent, or Firm*—Foley & Lardner LLP

(57) **ABSTRACT**

A method of treating congestive heart failure (CHF) in a human patient comprises treating an aliquot of the patients blood ex vivo with at least one stressor selected from the group consisting of a temperature above or below body temperature, an electromagnetic emission and an oxidative environment, followed by administering the aliquot of treated blood to the patient. The treatment can be used on its own or as an adjunctive therapy in combination with conventional CHF treatments.

20 Claims, 7 Drawing Sheets

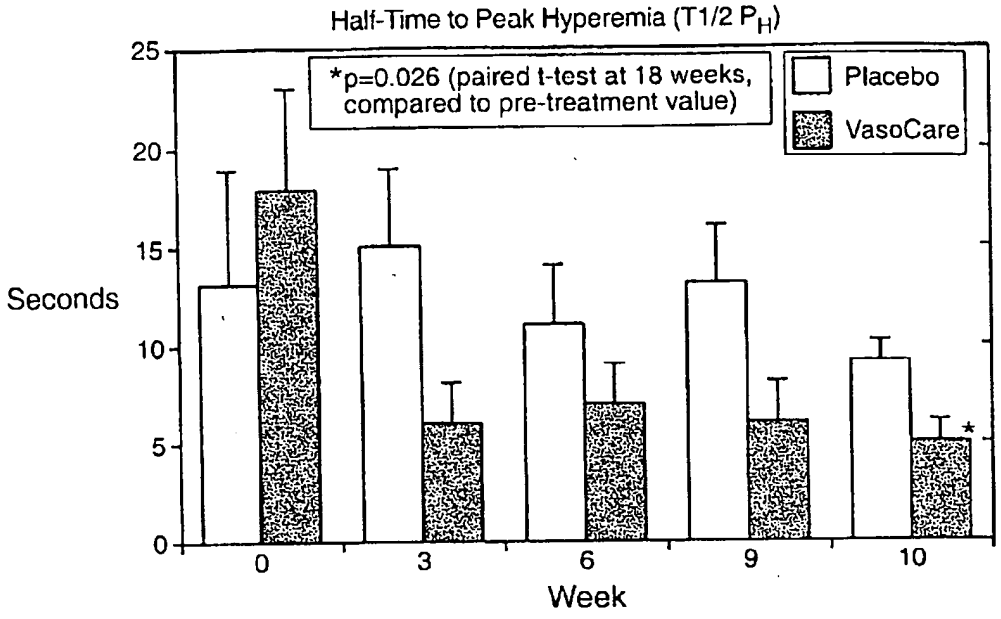
Half-Time to Peak Hyperemia (T1/2 P_H)
*p=0.026 (paired t-test at 18 weeks, compared to pre-treatment value)
Placebo
VasoCare
Seconds
25
20
15
10
5
0
0
3
6
9
10
Week
*

FIG._1

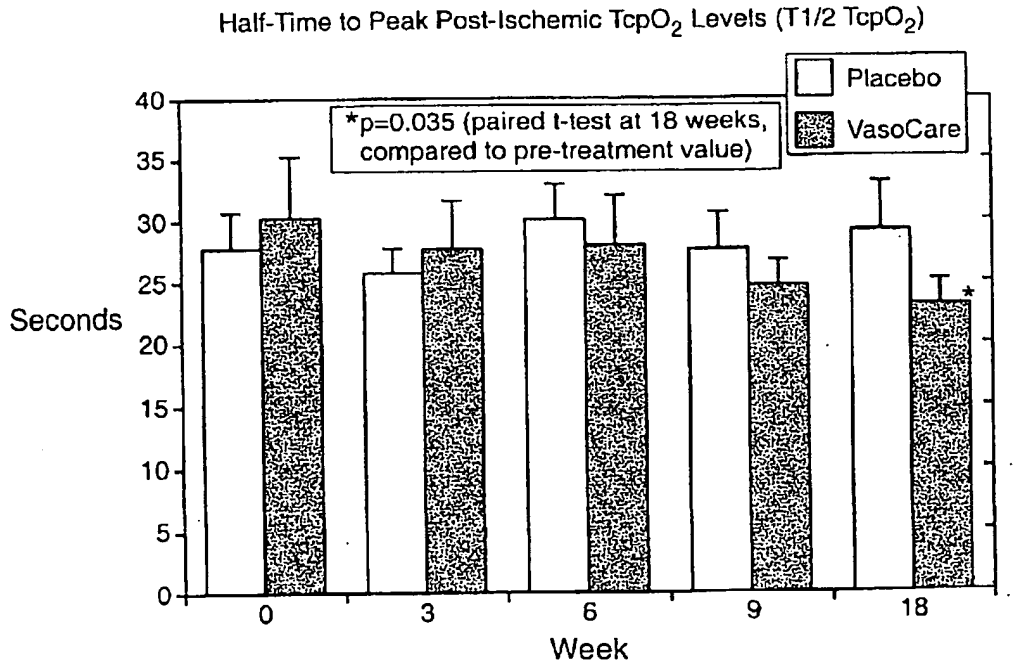
Half-Time to Peak Post-Ischemic $TcpO_2$ Levels (T1/2 $TcpO_2$)
*p=0.035 (paired t-test at 18 weeks, compared to pre-treatment value)
Placebo
VasoCare
Seconds
40
35
30
25
20
15
10
5
0
0
3
6
9
18
Week
*

FIG._2

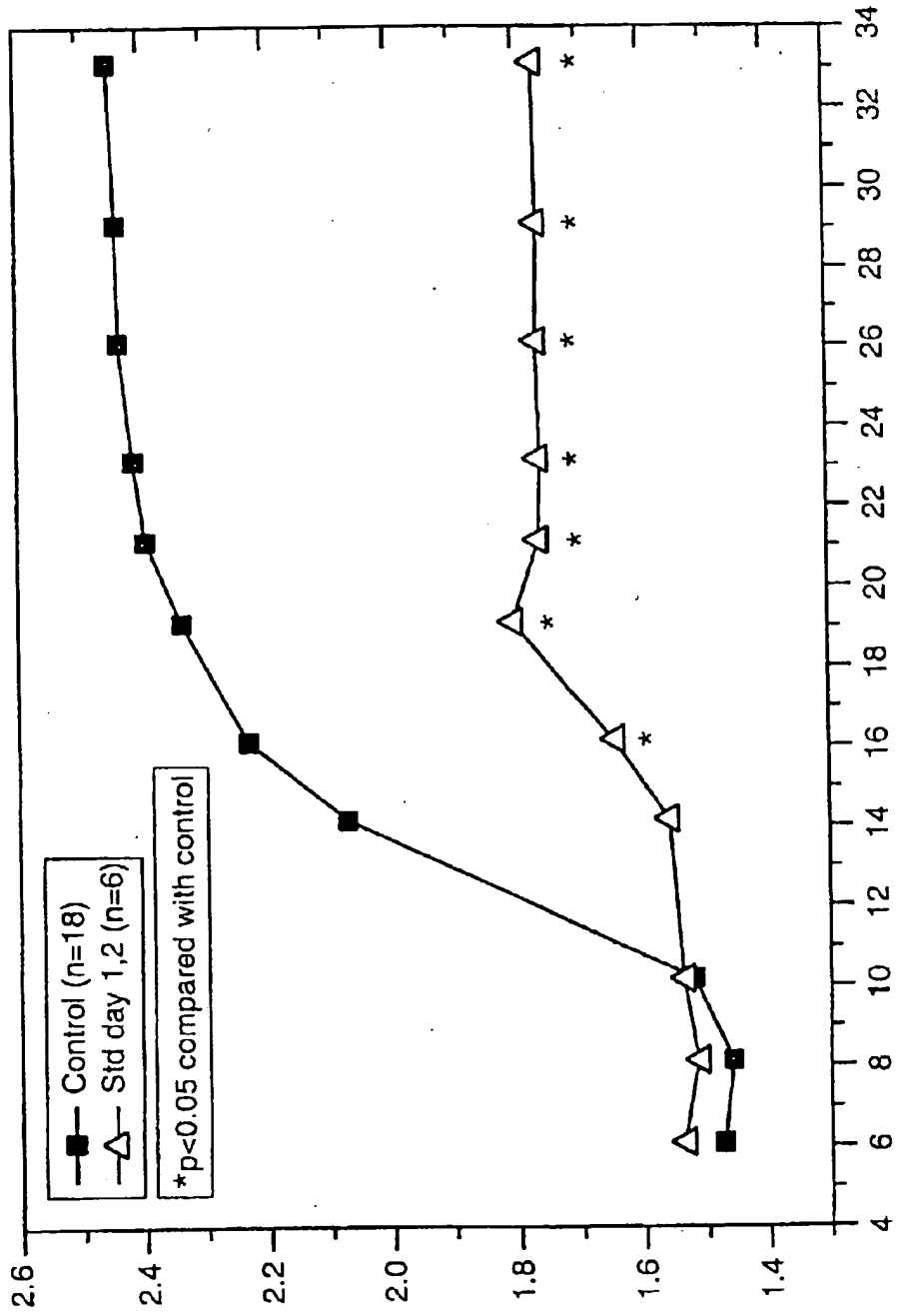
Control (n=18)
Std day 1,2 (n=6)
*p<0.05 compared with control
Days After Disease Induction
2.6
2.4
2.2
2.0
1.8
1.6
1.4
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34

FIG._3

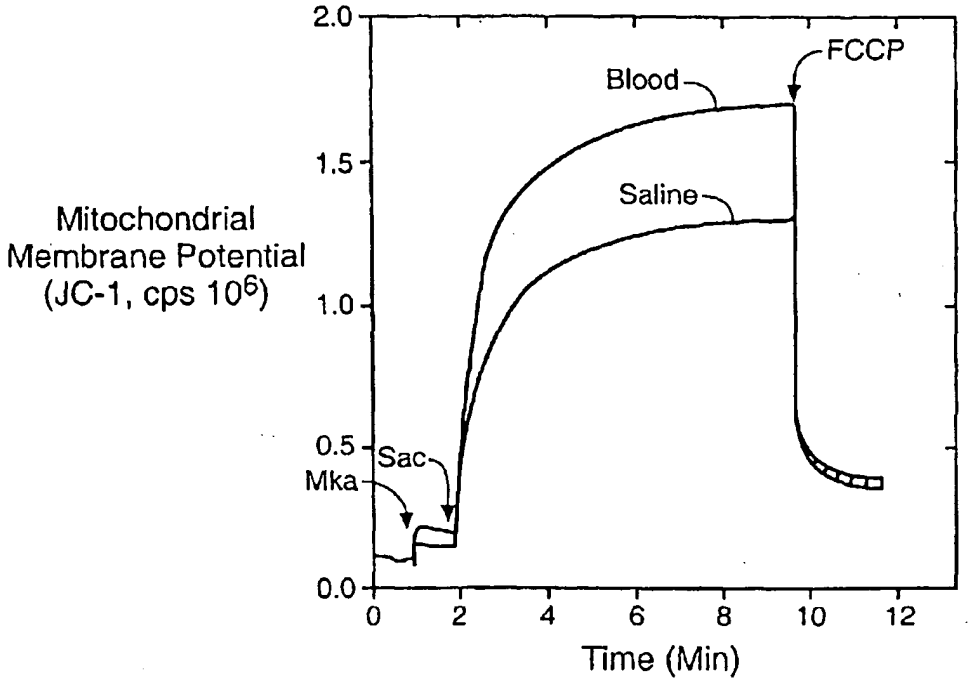
Mitochondrial
Membrane Potential
(JC-1, cps 10^6)
2.0
1.5
1.0
0.5
0.0
Blood
FCCP
Saline
Sac
Mka
0
2
4
6
8
10
12
Time (Min)

FIG._4A

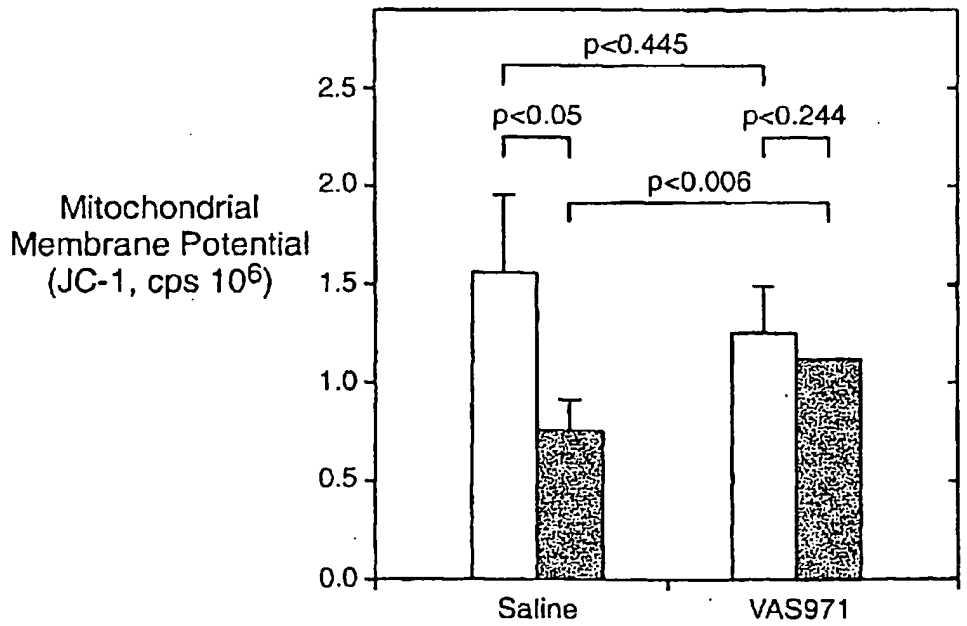
Mitochondrial
Membrane Potential
(JC-1, cps 10^6)
p<0.445
p<0.05
p<0.244
p<0.006
2.5
2.0
1.5
1.0
0.5
0.0
Saline
VAS971

FIG._4B

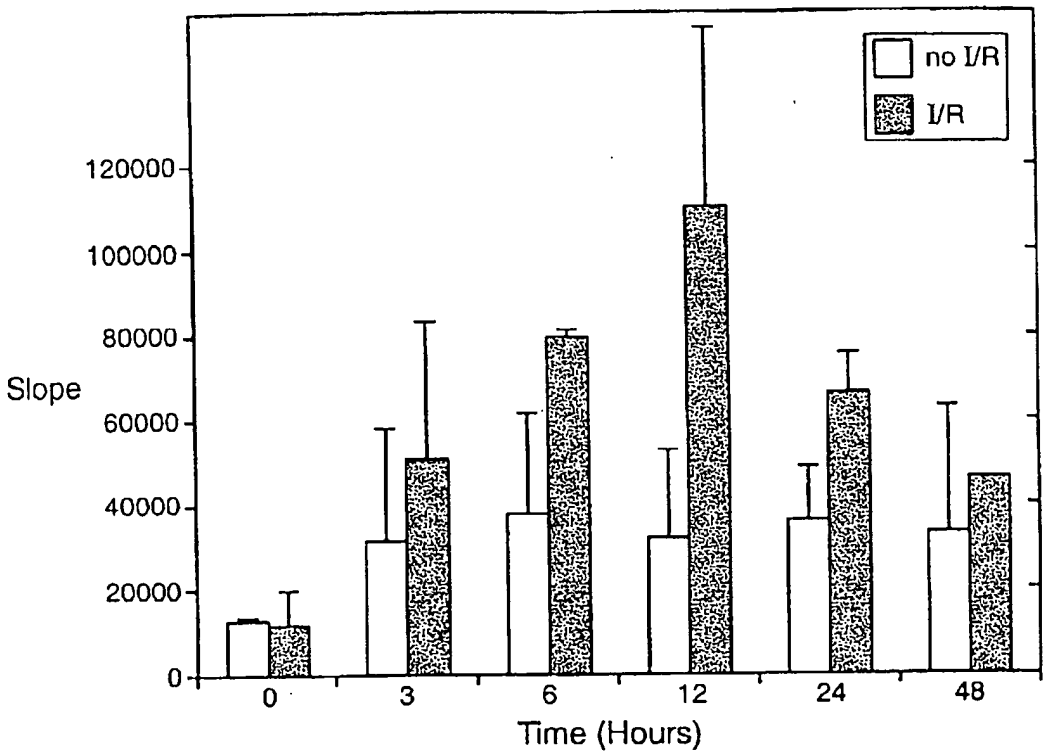
no I/R
I/R
120000
100000
80000
60000
40000
20000
0
Slope
0
3
6
12
24
48
Time (Hours)

FIG._5

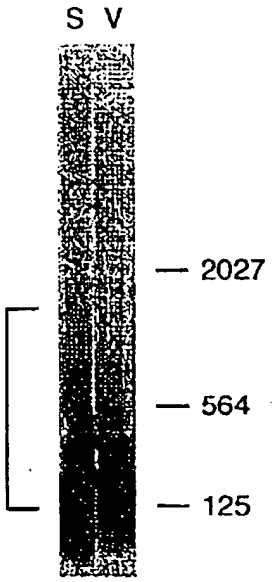

FIG._6A

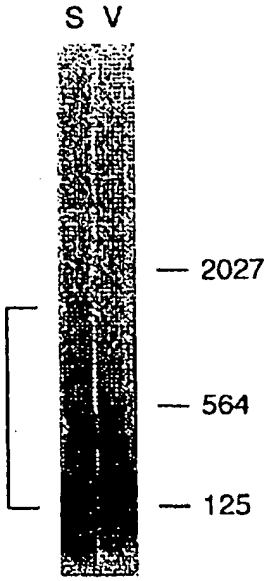

FIG._7B

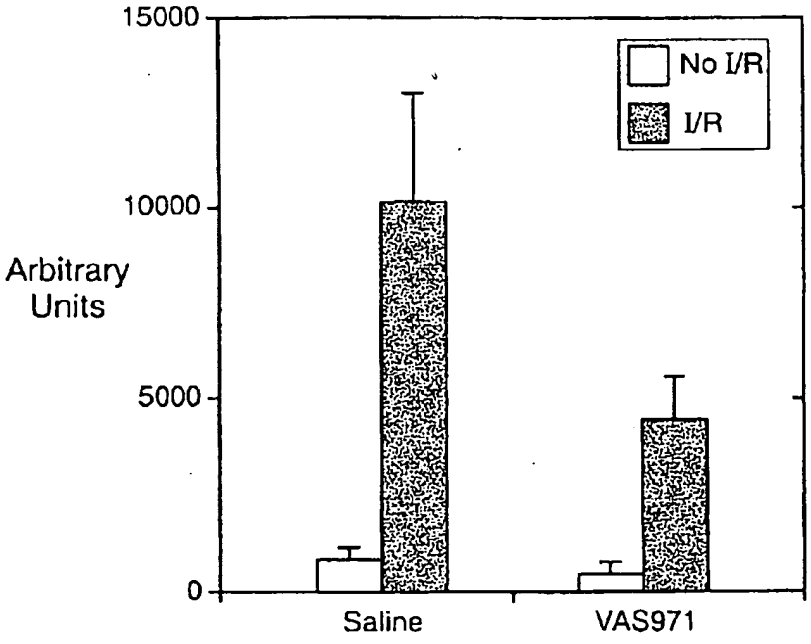

FIG._6B

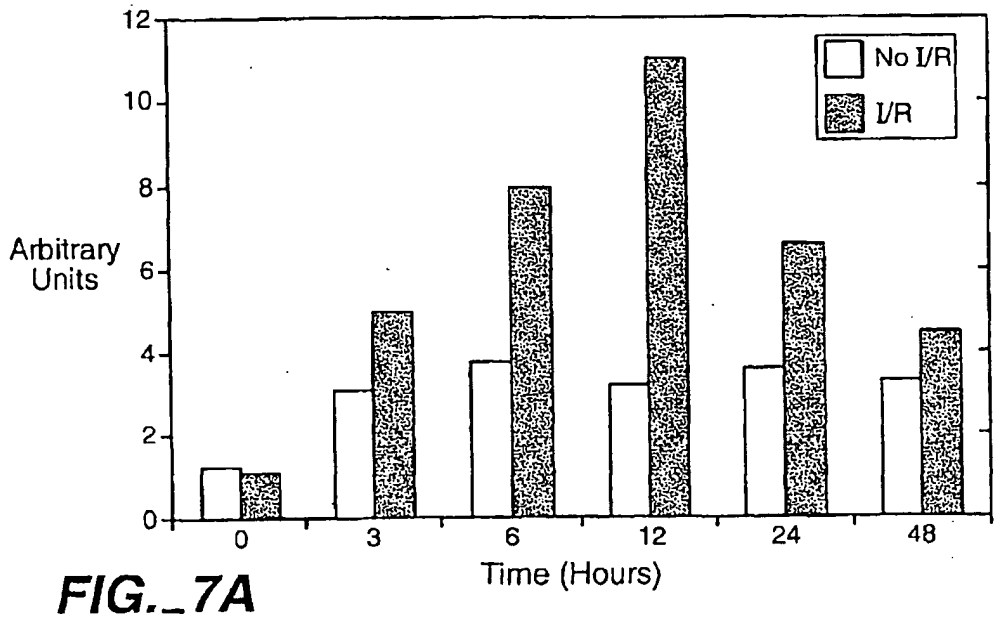
12
10
8
6
4
2
0
Arbitrary Units
No I/R
I/R
0
3
6
12
24
48
Time (Hours)

FIG._7A

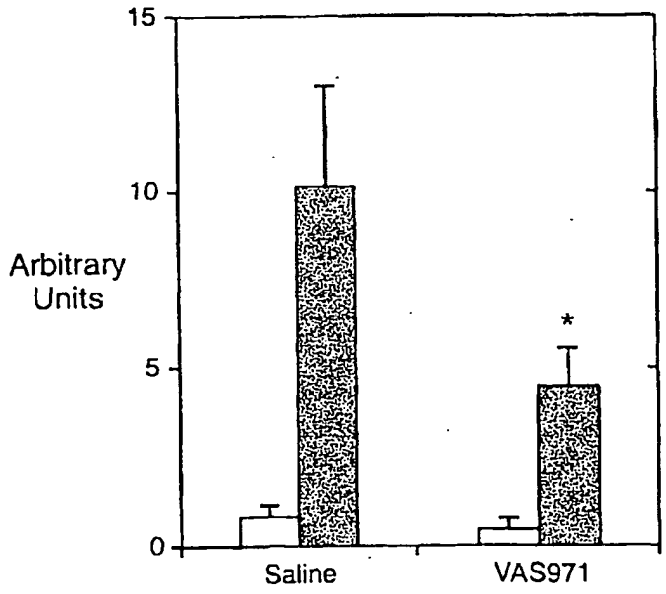
15
10
5
0
Arbitrary Units
*
Saline
VAS971

FIG._7C

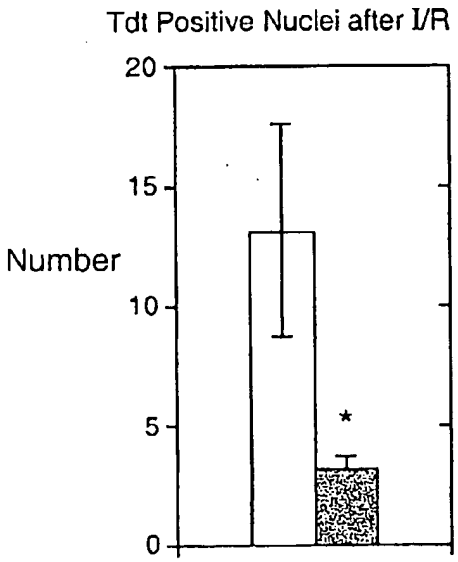

FIG._8A

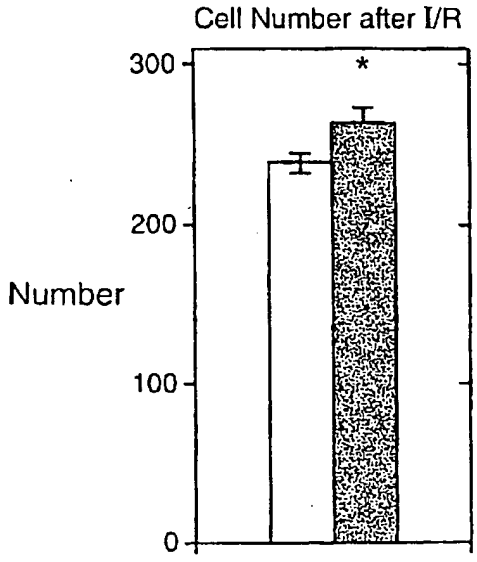

FIG._8B

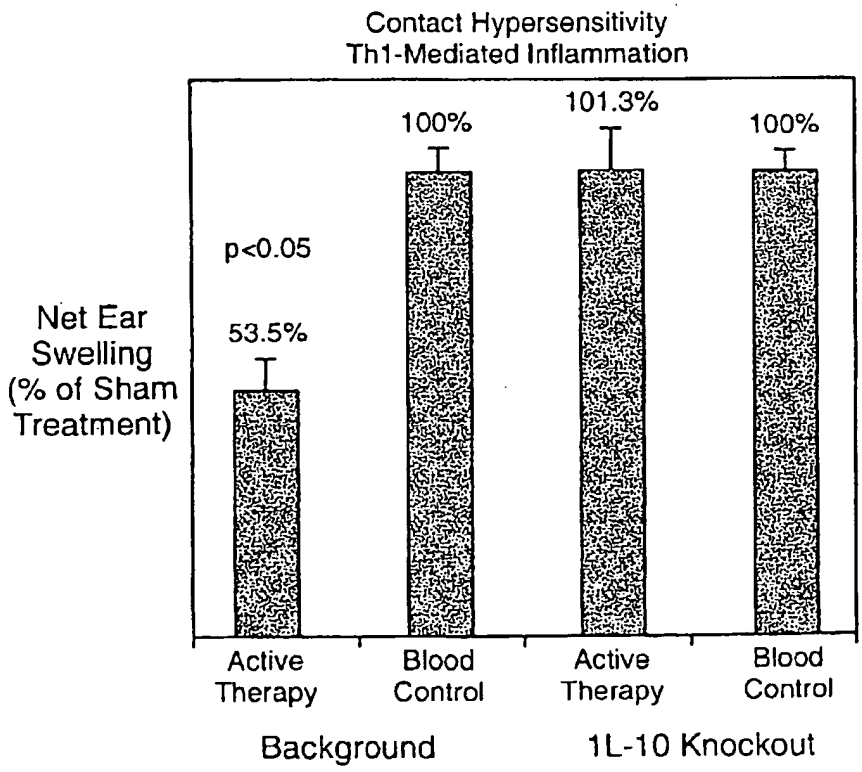

FIG._9

TREATMENT OF CONGESTIVE HEART FAILURE

This application is a continuation of Application No. 09/760,600, filed on Jan. 17, 2001, now U.S. Pat. No. 6,572,895 which issued on Jun. 3, 2003.

BACKGROUND OF THE INVENTION

1. Field of the Invention

This invention relates to methods for treating congestive heart failure, in particular by the administration to a human subject of an aliquot of modified blood, optionally in combination with one or more other treatments for alleviating the symptoms of congestive heart failure.

2. Description of the Prior Art

Congestive heart failure (CHF) is a relatively common disorder affecting approximately five million Americans, with a mortality rate of over 80,000 per year. It is believed that CHF is not a distinct disease process in itself, but rather represents the effect of multiple anatomic, functional and biologic abnormalities which interact together to ultimately produce progressive loss of the ability of the heart to fulfill its function as a circulatory pump.

CHF may be caused by the occurrence of an index event such as a myocardial infarction (heart attack) or be secondary to other causes such as hypertension or cardiac malformations such as valvular disease. The index event or other causes result in an initial decline in the pumping capacity of the heart, for example by damaging the heart muscle. This decline in pumping capacity may not be immediately noticeable, due to the activation of one or more compensatory mechanisms. However, the progression of CHF has been found to be independent of the patient's hemodynamic status. Therefore, the damaging changes caused by the disease are present and ongoing even while the patient remains asymptomatic. In fact, the compensatory mechanisms which maintain normal cardiovascular function during the early phases of CHF may actually contribute to progression of the disease, for example by exerting deleterious effects on the heart and circulation.

Some of the more important pathophysiologic changes which occur in CHF are activation of the hypothalamic-pituitary-adrenal axis, systemic endothelial dysfunction and myocardial remodeling.

Therapies specifically directed at counteracting the activation of the hypothalamic-pituitary-adrenal axis include beta-adrenergic blocking agents (β-blockers), angiotensin converting enzyme (ACE) inhibitors, certain calcium channel blockers, nitrates and endothelin-1 blocking agents. Calcium channel blockers and nitrates, while producing clinical improvement have not been clearly shown to prolong survival whereas β-blockers and ACE inhibitors have been shown to significantly prolong life, as have aldosterone antagonists. Experimental studies using endothelin-1 blocking agents have shown a beneficial effect.

Systemic endothelial dysfunction is a well-recognized feature of CHF and is clearly present by the time signs of left ventricular dysfunction are present. Endothelial dysfunction is important with respect to the intimate relationship of the myocardial microcirculation with cardiac myocytes. The evidence suggests that microvascular dysfunction contributes significantly to myocyte dysfunction and the morphological changes which lead to progressive myocardial failure.

In terms of underlying pathophysiology, evidence suggests that endothelial dysfunction may be caused by a relative lack of NO which can be attributed to an increase in vascular O_2 formation by an NADH-dependent oxidase and subsequent excess scavenging of NO. Potential contributing factors to increased O_2 production include increased sympathetic tone, norepinephrine, angiotensin II, endothelin-1 and TNF-α. In addition, levels of IL-10, a key anti-inflammatory cytokine, are inappropriately low in relation to TNF-α levels. It is now believed that elevated levels of TNF-α. with associated proinflammatory cytokines including IL-6, and soluble TNF-α receptors, play a significant role in the evolution of CHF by causing decreased myocardial contractility, biventricular dilatation, and hypotension and are probably involved in endothelial activation and dysfunction. It is also believed that TNF-α may play a role in the hitherto unexplained muscular wasting which occurs in severe CHF patients. Preliminary studies in small numbers of patients with soluble TNF-receptor therapy have indicated improvements in NYHA functional classification and in patient well-being, as measured by quality of life indices.

Myocardial remodeling is a complex process which accompanies the transition from asymptomatic to symptomatic heart failure, and may be described as a series of adaptive changes within the myocardium. The main components of myocardial remodeling are alterations in myocyte biology, loss of myocytes by necrosis or apoptosis, alterations in the extracellular matrix and alterations in left ventricular chamber geometry. It is unclear whether myocardial remodeling is simply the end-organ response that occurs following years of exposure to the toxic effects of long-term neurohormonal stimulation, or whether myocardial remodeling contributes independently to the progression of heart failure. Evidence to date suggests that appropriate therapy can slow or halt progression of myocardial remodeling.

Although presently used treatments can alleviate symptoms of CHF and correct certain pathophysiologic abnormalities caused by the disease process, CHF remains a relentlessly progressive condition with a relatively high rate of mortality. In fact, relative reductions in morbidity and mortality brought about by existing drugs are on the order of about 10 to 25 percent. Therefore, the need exists for additive or superior treatments for CHF, especially those which can significantly modify the underlying disease.

SUMMARY OF THE INVENTION

The present invention overcomes at least some of the above-noted and other disadvantages of presently known CHF therapies by providing a method for treating CHF in which an aliquot of mammalian blood is treated ex vivo and subsequently introduced into the body of a mammalian subject.

The aliquot of blood is treated by being subjected to one or more stressors which have been found to modify the blood. According to the present invention, the blood aliquot can be modified by subjecting the blood, or separated cellular or non-cellular fractions of the blood, or mixtures of the separated cells and/or non-cellular fractions of the blood, to stressors selected from temperature stressors, electromagnetic emissions and oxidative environments, or any combination of such stressors, simultaneously or sequentially.

As discussed above, the pathophysiologic changes associated with CHF include immune activation, endothelial dysfunction and loss of myocytes through necrosis and/or apoptosis. The treatment method of the present invention has been shown to produce therapeutic benefits in each of these three areas.

With respect to immune activation, the treatment of the present invention has been found to modulate levels of inflammatory cytokines in several TH1/TNFα-dependent experimental inflammatory models in different species. For example, the treatment has been shown to reduce allergic contact hypersensitivity in Balb/c mice, a Th1-driven immune reaction mediated by TNF-α (Shivji et al., *Journal of Cutaneous Medicine and Surgery* 4: 132–137, 2000); to down-regulate expression of IL-6 mRNA in adjuvant-induced arthritis in the Lewis rat model of inflammatory disease; and to decrease the proportion of Th1 to Th2 cells in patients with scleroderma, a Th1-driven autoimmune disease (Rabinovich et al., Poster presented at the XII Pan-American Congress of Rheumatology, Montreal, Canada, Jun. 21–25, 1998). It is believed that the treatment down-regulates the pro-inflammatory Th1-type immune response, for example by increasing anti-inflammatory TH2-type cytokines, including IL-10.

The treatment of the Invention has been found to improve endothelial function in a number of studies conducted in humans and in animals. For example, the treatment has been found to improve endothellal-dependent vasodilator function in an open study on patients with severe primary Raynaud's disease (Cooke et al., *International Journal of Angiology* 16: 250–254, 1997), to improve the rate of recovery of skin blood flow following temporary occasion in a double-blind, placebo-controlled study in patients with advanced peripheral vascular disease secondary to atherosclerosis(Courtman et al., *Circulation* Vol 102, #18, suppl II, 2000), to reduce progression of atherosclerosis in the cholesterol-fed LDL receptor deficient mouse (Babaei et al., *Journal of the American College of Cardiology* 35 (Suppl. A): 243, 1999), and to markedly improve endothelial-dependent vasodilator function to acetylcholine in severely atherosclerotic, hypercholesteromlemic Watanabe rabbits as evidenced by an increased vasodilatory response to the nitric oxide agonist (acetyicholine) (Courtman et al., above). It is believed that the improvement in endothelial function is due to an anti-inflammatory effect and to increased availability of NO which may result in an improvement in vasodilatory capacity, known to be severely impaired in CHF patients.

With regard to myocyte loss, the method of the invention is believed to decrease levels of apoptosis and necrosis. It has been shown that the treatment can protect the kidney from ischermia/reperfusion (I/R) damage known to be associated with increased apoptotic cell death (Tremblay et al., *Pathophysiology* 5:26; Chen et al., *Medecine Sciences* 15 (Suppl. 1): 16), and can reduce apoptosis in the kidney following I/R as determined by DNA laddering and density of apoptotic nuclei stained by Tdt.

Because the treatment of the invention produces therapeutic benefits In three areas in which pathophysiologic changes occur in CHF, namely endothelial dysfunction, production of inflammatory cytokines and myocyte loss due to apoptosis, there is provided a strong theoretical basis on which to predict that the treatment of the invention would be beneficial to patients with CHF. The method of the Invention may be used as a CHF therapy on its own or In combination with other therapies, such as nitrate therapy, β-blockers, ACE inhibitors, AT receptor blocking agents, aldosterone antagonists, calcium channel blocking agents, TNF blocking agents, suppressors of production of TNF-β, and/or other more routine treatment measures such as sodium and fluid restriction, diuretics, digitalis, etc. Specific drugs known to suppress TNF-β production include pentoxifylline, amrinone, adenosine, thalidomide, TNF converting enzyme (TACE) inhibitors and dexamethasone. Specific TNF blocking agents include monoclonal antibodies and etanercept.

Accordingly, in one aspect the present invention provides a method of treating CHF in a human patient suffering therefrom, comprising: (a) treating an aliquot of the patient's blood ex vivo with at least one stressor selected from the group consisting of a temperature above or below body temperature, an electromagnetic emission and an oxidative environment; and (b) administering the aliquot of blood treated in step (a) to the patent, wherein the aliquot has a volume sufficient to alleviate CHF in the patient.

In another aspect, the present invention provides a combination treatment for CHF in a human patient suffering therefrom, the combination treatment including the administration to the patient of an aliquot of the patient's own blood which has been treated ex vivo with one or more stressors selected from an oxidative environment, thermal stress and electromagnetic emission, and a treatment selected from the group consisting of nitrates, β-blockers, ACE inhibitors, AT receptor blocking agents, aldosterone antagonists, calcium channel blocking agents, TNF blocking agents, suppressors of production of TNF-α, sodium and fluid restriction, diuretics and digitalis.

BRIEF DESCRIPTION OF THE DRAWINGS

The invention is now described, by way of example only, with reference to the accompanying drawings in which:

FIGS. **1** and **2** of the accompanying drawings are graphical presentations of the results obtained from Example 2 described below;

FIG. **3** of the accompanying drawings is a graphical presentation of the results obtained from Example 3 described below;

FIG. **4** of the accompanying drawings is a graphical presentation of the results obtained from Example 4 described below;

FIGS. **5** to **8** of the accompanying drawings are graphical presentations of the, results obtained from Example 5 described below; and

FIG. **9** of the accompanying drawings is a graphical presentation of the effects of the treatment of the invention in contact hypersensitivity Th1-mediated inflammation

DETAILED DESCRIPTION OF PREFERRED EMBODIMENTS

According to a preferred process of the present invention, an aliquot of blood is extracted from a mammalian subject, preferably a human, and the aliquot of blood is treated ex vivo with certain stressors, described in more detail below. The terms "aliquot", "aliquot of blood" or similar terms used herein include whole blood, separated cellular fractions of the blood including platelets, separated non-cellular fractions of the blood including plasma. and combinations thereof. The effect of the stressors is to modify the blood, and/or the cellular or non-cellular fractions thereof, contained in the aliquot. The modified aliquot is then re-introduced into the subject's body by any route suitable for vaccination, preferably selected from intra-arterial injection. intramuscular injection, intravenous injection, subcutaneous injection, intrapertoneal injection, and oral, nasal or rectal administration.

The stressors to which the aliquot of blood is subjected ex vivo according to the method of the present invention are selected from temperature stress (blood temperature above or below body temperature), an oxidative environment and

an electromagnetic emission, individually or In any combination, simultaneously or sequentially. Suitably, in human subjects, the aliquot has a volume sufficient that, when reintroduced into the subject's body, at least partial alleviation of CHF is achieved in the subject Preferably, the volume of the aliquot is up to about 400 ml, preferably from about 0.1 to about 100 ml, more preferably from about 5 to about 15 ml, even more preferably from about 8 to about 12 ml, and most preferably about 10 ml, along with an anticoagulant, e.g. 2 ml sodium citrate.

It is preferred, according to the invention, to apply all three of the aforementioned stressors simultaneously to the aliquot under treatment, in order to ensure the appropriate modification to the blood. It may also be preferred in some embodiments of the invention to apply any two of the above stressors, for example to apply temperature stress and oxidative stress, temperature stress and an electromagnetic emission, or an electromagnetic emission and oxidative stress. Care must be taken to utilize an appropriate level of the stressors to thereby effectively modify the blood to alleviate CHF in the subject.

The temperature stressor warms the aliquot being treated to a temperature above normal body temperature or cools the aliquot below normal body temperature. The temperature is selected so that the temperature stressor does not cause excessive hemolysis in the blood contained in the aliquot and so that, when the treated aliquot is injected into a subject, alleviation of CHF will be achieved. Preferably, the temperature stressor is applied so that the temperature of au or a part of the aliquot is up to about 55° C., and more preferably in the range of from about −5° C. to about 55° C.

In some preferred embodiments of the invention, the temperature of the aliquot is raised above normal body temperature, such that the mean temperature of the aliquot does not exceed a temperature of about 55° C., more preferably from about 40° C. to about 50° C., even more preferably from about 40° C. to about 44° C. and most preferably about 42.5±1° C.

In other preferred embodiments, the aliquot is cooled below normal body temperature such that the mean temperature of the aliquot is within the range of from about −5° C. to about 36.5° C., more preferably from about 10° C. to about 30° C. and even more preferably from about 15° C. to about 25° C.

The oxidative environment stressor can be the application to the aliquot of solid, liquid or gaseous oxidizing agents. Preferably, it involves exposing the aliquot to a mixture of medical grade oxygen and ozone gas, most preferably by bubbling through the aliquot, at the aforementioned temperature range, a stream of medical grade oxygen gas having ozone as a minor component therein. The ozone content of the gas stream and the flow rate of the gas stream are preferably selected such that the amount of ozone introduced to the blood aliquot, either on its own or in combination with other stressors, does not give rise to excessive levels of cell damage such that the therapy is rendered ineffective. Suitably, the gas stream has an ozone content of up to about 300 μg/ml, preferably up to about 100 μg/ml, more preferably about 30 μg/ml, even more preferably up to about 20 μg/ml, particularly preferably from about 10 μg/ml to about 20 μg/ml, and most preferably about 14.5±1.0 μg/ml. The gas stream is suitably supplied to the aliquot at a rate of up to about 2.0 liters/min, preferably up to about 0.5 liters/min, more preferably up to about 0.4 liters/min, even more preferably up to about 0.33 liters/min, and most preferably about 0.24±0.024 liters/min, at STP. The lower limit of the flow rate of the gas stream is preferably not lower than 0.01 liters/min. more preferably not lower than 0.1 liters/min, and even more preferably not lower than 0.2 liters/min.

The electromagnetic emission stressor is suitably applied by irradiating the aliquot under treatment from a source of an electromagnetic emission while the aliquot is maintained at the aforementioned temperature and while the oxygen/ozone gaseous mixture is being bubbled through the aliquot. Preferred electromagnetic emissions are selected from photonic radiation, more preferably UV, visible and infrared light, and even more preferably UV light. The most preferred UV sources are UV lamps emitting primarily UV-C band wavelengths, i.e. at wavelengths shorter than about 280 nm. Such lamps may also emit amounts of visible and infrared light. Ultraviolet light corresponding to standard UV-A (wavelengths from about 315 to about 400 nm) and UV-B (wavelengths from about 280 to about 315) sources can also be used. For example, an appropriate dosage of such UV light, applied simultaneously with the aforementioned temperature and oxidative environment stressors, can be obtained from up to eight lamps arranged to surround the sample container holding the aliquot, operated at an intensity to deliver a total UV light energy at the surface of the blood of from about 0.025 to about 10 joules/cm^2, preferably from about 0.1 to about 3.0 joules/cm^2, may advantageously be used. Preferably, four such lamps are used.

The time for which the aliquot is subjected to the stressors is normally within the time range of up to about 60 minutes. The time depends to some extent upon the chosen intensity of the electromagnetic emission, the temperature, the concentration of the oxidizing agent and the rate at which it is supplied to the aliquot. Some experimentation to establish optimum times may be necessary on the part of the operator, once the other stressor levels have been set Under most stressor conditions, preferred times will be in the approximate range of from about 2 to about 5 minutes, more preferably about 3 or about 3½ minutes. The starting blood temperature, and the rate at which it can be warmed or cooled to a predetermined temperature, tends to vary from subject to subject. Such a treatment provides a modified blood aliquot which is ready for injection into the subject.

In the practice of the preferred process of the present invention, the blood aliquot may be treated with the stressors using an apparatus of the type described in U.S. Pat. No. 4,968,483 to Mueller. The aliquot is placed in a suitable, sterile, UV light-transmissive container, which is fitted into the machine. The UV lamps are switched on for a fixed period before the gas flow is applied to the aliquot providing the oxidative stress, to allow the output of the UV lamps to stabilize. The UV lamps are typically on while the temperature of the aliquot is adjusted to the predetermined value, e.g. 42.5±1° C. Then the oxygen/ozone gas mixture, of known composition and controlled flow rate, is applied to the aliquot, for the predetermined duration of up to about 60 minutes, preferably 2 to 5 minutes and most preferably about 3 minutes as discussed above, so that the aliquot experiences all three stressors simultaneously. In this way, blood is appropriately modified according to the present invention to achieve the desired effects.

A subject preferably undergoes a course of treatments, each individual treatment comprising removal of a blood aliquot, treatment thereof as described above and re-administration of the treated aliquot to the subject. A course of such treatments may comprise daily administration of treated blood aliquots for a number of consecutive days, or may comprise a first course of daily treatments for a designated period of time, followed by an interval and then one or more additional courses of daily treatments.

In one preferred embodiment, the subject is given an initial course of treatments comprising the administration of 4 to 6 aliquots of treated blood. In another preferred embodiment, the subject is given an initial course of therapy comprising administration of from 2 to 4 aliquots of treated blood, with the administration of any pair of consecutive aliquots being either on consecutive days, or being separated by a rest period of from 1 to 21 days on which no aliquots are administered to the patient, the rest period separating one selected pair of consecutive aliquots being from about 3 to 15 days. In a more specific, preferred embodiment, the dosage regimen of the initial course of treatments comprises a total of three aliquots, with the first and second aliquots being administered on consecutive days and a rest period of 11 days being provided between the administration of the second and third aliquots. In the method of the invention, it is preferred that no more than one aliquot is administered to the subject on any given day.

It may be preferred to subsequently administer additional courses of treatments following the initial course of treatments. Preferably, subsequent courses of treatments are administered at least about three weeks after the end of the initial course of treatments. In one particularly preferred embodiment, the subject receives a second course of treatments comprising the administration of one aliquot of treated blood every 30 days following the end of the initial course of treatments, for a period of 6 months.

It will be appreciated that the spacing between successive courses of treatments should be such that the positive effects of the treatment of the invention are maintained, and may be determined on the basis of the observed response of individual subjects.

As discussed above, the method of the present invention may preferably be used as an adjunctive treatment in combination with other therapies for CHF. Preferred examples of such other therapies include one or more of ACE inhibitors, β-blockers, aldosterone antagonists, TNF blockers, suppressors of TNF production and other forms of routine therapy.

The invention is further illustrated and described with reference to the following specific examples.

EXAMPLE 1

This example describes a study conducted to determine the effect of the treatment of the invention on endothelial function in Watanabe rabbits. known to develop complex atherosclerotic lesions during the first year of life. As previously mentioned, endothelial dysfunction is linked to the pathophysiology of CHF.

The rabbits entered the study at 7 to 8 months of age, and were randomized into three groups, a first group to be sacrificed immediately for baseline measurements, a second group (n=10) which received injections of blood treated according to the invention, and a third group (n=10) which received sham treatments comprising injections of untreated blood.

The treatment comprised a total of 4 injections of treated blood over a period of 10 weeks. The blood was treated by exposure to the following three stressors in an apparatus as generally described in U.S. Pat. No. 4,968,483 to Mueller et al.:

(a) an elevated temperature of 42.5° C.±1.0° C.:

(b) a gas mixture of medical grade oxygen containing 14.5±1.0 μg/ml of ozone, bubbled through the blood at a flow rate of 240±24 ml/min for 3 minutes; and

(c) ultraviolet light at a wavelength of 253.7 nm, and a total energy density of 2.0 joules/cm^2 with some fluctuation within the previously mentioned range).

The treated blood was administered to the animals by intra-muscular injection. The control animals were administered intramuscular injections of untreated blood on the same injection schedule as the treated animals.

All animals were sacrificed at 11 months of age. Ring preparations were taken from the iliac arteries of the animals and were evaluated for the amount of relaxation induced by acetylcholine (an endothelial-dependent vasodilator) after being treated with phenylephrine (a vasoconstrictor).

Evaluation of the ring preparations showed a significant increase in endothelial-mediated vasorelaxation (52.2±6%) was observed in the treated animals as compared to the control animals injected with untreated blood (22.9±4%, p less than 0.001).

No relaxation was observed when the endothelium was removed from the ring preparations, further confirming the endothelium-specific effect of the treatment of the invention.

EXAMPLE 2

This example describes a study into the effects of the treatment of the invention therapy on patients suffering from peripheral vascular disease (PVD). The study was conducted at the University Hospital, Lund, Sweden.

The study comprised a placebo-controlled, double blind study In 18 patients (7 males, 11 females) with moderately advanced PVD, whose main symptom was intermittent claudication. The patients participating in the study were recruited from the attending population of the Department of Internal Medicine of the University Hospital, Lund, Sweden.

The patients were randomly assigned to receive either placebo (intramuscular injection of 10 ml warm saline) or treatment according to the invention comprising intramuscular injections of 10 ml of treated autologous blood. The treatment of the blood Involved the collection of a 10 ml aliquot of a patient's venous blood into 2 ml of sodium citrate 3–4% as anticoagulant. Each blood aliquot was transferred to a sterile, disposable low-density polyethylene vessel and then exposed to the following conditions in an apparatus as generally described in U.S. Pat. No. 4,968,483 to Mueller et al.:

(d) elevated temperature of 42.5° C.;

(e) medical oxygen containing 14.5±1.0 μg/ml of ozone bubbled through the blood aliquot at a flow rate of 240±24 ml/min at STP for 3 minutes; and

(f) ultra-violet light at a wavelength of 253.7 nm, and a total energy of about 2.0 joules/cm^2.

Each patient received a total of 12 injections of saline or treated blood over a period of 9 weeks.

The therapy was assessed by measuring the recovery rate of skin blood flow and oxygen tension following total temporary occlusion of blood flow in the extremities of each patient prior to commencement of the therapy and at 3 weeks, 6 weeks, 9 weeks and 2 months following the initiation of the therapy.

Skin blood flow in the foot was measured by Laser Doppler Fluxmetry (LOF) and oxygen tension was determined by measurement of transcutaneous skin oxygen pressure ($TcpO_2$) in the foot In patients receiving the treatment of the invention, a strong trend was observed toward a treatment-related reduction in both the total time to reach maximum perfusion (TP_H) and the halftime to reach maximum perfusion ($T_{1/2}P_H$), indicative of an improvement in the rate of recovery of skin blood flow. No change was observed in the control group.

The improved rate of recovery of blood flow in patients treated according to the invention was apparent during the

course of treatments and persistent throughout, but did not reach significance until 2 months following initiation of the therapy. A comparison of the $T_{1/2}P_H$ for the placebo and treated groups, as measured by LDF, is shown in FIG. 1.

There was also an observed trend toward more rapid recovery of skin oxygen content in the treated group. This difference became statistically significant at 2 months following the initiation of the therapy. A comparison of the half-time to maximum $TcpO_2$ after ischemia ($O_2T_{1/2}$) for the treated group compared to the placebo group Is shown in FIG. 2.

The study therefore demonstrated that, in this group of moderately advanced PVD patients, the treatment of the invention had a dear biological effect on the rate at which blood flow in the skin of the foot was recovered following a period of total occlusion ischemia. A similar effect, but of smaller magnitude, was noted for the rate of $TcpO_2$ recovery, whereas patients receiving placebo treatment showed no change. These results suggest that the treatment of the invention has a beneficial effect on endothelial function, and appears to improve skin microcirculatory function in patients with PVD.

EXAMPLE 3

This example relates to the use of the treatment of the invention to prevent the onset of arthritis, and describes the results of a study conducted in an established animal model of arthritis. The specific animal model used in this study was adjuvant-induced arthritis in rats (see, for example. Pearson, C., 1956, "Development of Arthritis, periarthrtis and periostitis in rats given adjuvant", *Proc. Soc. Exp. Biol. Med.*, 91:95). According to this model, arthritis is induced in rats by injecting them with adjuvant containing *Mycobacterium butyricum*.

Male Lewis rats, 4 to 5 weeks of age, 100 to 120 g, were obtained from Charles River Laboratories, quarantined one week and entered into the study. An adjuvant mixture was prepared for induction of arthritis by suspending 50 mg *M. butyricum* (Difco Laboratories, Inc., Detroit, Mich.) in 5 ml light white paraffin oil-m3516 (Sigma Chemical Co., St. Louis, Mo.) and thoroughly mixed using a homogenizer. Aliquots of the mixture sufficient to supply 0.15 mg *M. butyricum* was injected Into each animal subcutaneously, at the base of the tail. Symptoms of arthritis appeared about 12 days after induction, in each animal, as evidenced by limb swelling.

Two rats, which were not injected with the adjuvant mixture, were used as blood donors. Blood was collected from the donors by cardiac puncture, and 10 ml of citrated blood was transferred to a sterile, low density polyethylene vessel for ex vivo treatment with stressors according to the invention. Using an apparatus as generally described in the above-mentioned Mueller patent, the blood was stressed by a treatment according to the invention.

Six animals were given a course of 2 injections of 0.2 ml aliquots of the treated blood, the injections being administered on consecutive days after the onset of arthritis. A control group of 8 rats received injections of untreated blood using the same injection schedule as the treated animals. Injections commenced one day after the induction of arthritis. Hind paw volumes of the animals were measured, on alternate days, after onset of arthritis, by water displacement in a 250 ml beaker using a top-loaded Mettler balance. The results for each group of animals were averaged and are presented graphically on the accompanying FIG. 3, a plot of mean foot volume against days after induction of arthritis. The upper curve is derived from the control group of animals, the lower curve from the animals which received the course of injections of treated blood. A significant decrease in the severity of the arthritis, as indicated by lower foot volumes, is apparent for the treated animals as compared to the animals of the control group.

The above results show that treatment of subjects with modified mammalian blood can effectively prevent the onset of arthritis in mammals.

The expression of IL-6 mRNA in lymph nodes of treated and untreated animals was measured 10 days after induction of arthritis, and the

TABLE I

Treatment	IL-6 copy no. (per 4500 actin units)
Active	<35 (n = 8)
Control	254 ± 203 (n = 8)

The results shown above in Table 1 show that the treatment according to the invention can modulate levels of inflammatory cytokines in a Th1/TNF-α-dependent model of arthritis. There is evidence that production of inflammatory cytokines such as IL-6 and TNF-α is linked to the pathophyslology of CHF.

EXAMPLE 4

The experiment reported in this example demonstrates, by use of an animal model system involving ischemia and subsequent reperfusion of various body organs, that the treatment of the present invention has the effect of reducing apoptosis and necrosis. Ischemia-reperfusion injuries are known to involve increase of apoptosis and necrosis in the affected organs and tissues-see for example Saikumar p, et al. "Mechanisms of cell death in hypoxial/reoxygenation injury", *Oncogene* 1998 Dec 24; 17(25):3341–9; and Burns A. T. et.al., "Apoptosis in ischemia/reperfusion injury of human renal allografts" *Transplantation* 1998 Oct 15; 66(7): 872–6, and other publications both preceding and following those. Known techniques of determination of apoptosis at the cellular level are employed in this example.

Pure-bred normal beagle dogs, aged 1–2 years, equal numbers of males and females, were used as the experimental animals. The animals were separated into four groups, A, B, C and D, each group consisting of six animals. three males and three females. Animals of groups A and C were subjected to the process of the invention, by being subjected to two 10-day courses of daily removal of an 8 ml aliquot of blood, extracorporeal treatment of the aliquot with oxygen/ozone, UV radiation and heat, and re-administraion of 5 ml of the treated aliquot to the same animal, by intramuscular injection.

Each such treatment was conducted as follows.

An 8-lm aliquot of blood was extracted from the animal, treated with sodium citrate (2 ml) and placed in a sterile container. It was subjected simultaneously to the UV radiation, oxygen/ozone gas oxidative environment and elevated temperature stressors, in an apparatus as generally described in the aforementioned Mueller U.S. Pat. No. 4,969,483. More specifically, the blood sample in the sterile, UV-transparent container was heated using infra-red lamps to 42.5° C., and whilst being maintained at that temperature, it was subjected to UV radiation of predominant wavelength 253.7 nm under the preferred conditions previously described. Simultaneously, a mixture of medical grade oxy-

gen and ozone, of ozone content 13.5–15.5 μg/ml was bubbled through the blood sample at a flow rate within the range from 60–240 mls/min (STP). The time of simultaneous UV exposure and gas mixture feed was 3 minutes. A 5 ml portion of the treated blood aliquot was reinjected intramuscularly into each test animal.

Each animal of groups A and C, receiving the courses of treatment according to the invention, experienced a three week rest period between the 10-day courses of treatment Groups B and D were the control groups, given two 10-day courses of daily injections of 5 ml of physiological saline, with a three-week rest period between the 10-day courses.

One day following the second course of injections, the animals were anaesthetized under light gas anaesthesia, and the right kidney of each animal was removed through a back incision. An occlusive clip was placed on the remaining renal artery and vein, to expose the left kidney to transient ischemia, for 60 minutes. Then the clip was removed to allow reperfusion of the kidney by normal blood flow.

The animals were observed for 6 days after the ischemia procedure, and then sacrificed. The ischemic kidney of each animal was surgically removed and divided into two parts. One part was kept frozen at −80° C., and the other part was fixed in 10% formalin for immuno- and routine histopathology studies.

Mitochondrial membrane potential was measured in proximal tubular cells isolated from the ischemic and control kidneys, both at the time of removal of the control kidney and following sacrifice. For this purpose, dog kidney proximal tubes were purified from normal or ischemic kidney cortexes by the collagenase treatment procedure described by Marshansky et al., "Isolation of heavy endosomes from dog proximal tubes in suspension", *J.Membr. Biol* 153(1), 59–73, 1996. Renal mitochondria were isolated in suspension by differential centrifugation (see Marshansky, "Organic hydroperoxides at high concentrations cause energization and activation of AATP synthesis in mitochondria", *J. Biol. Chem.* 264(7), 3670–3673, 1989. after tissue homogenization in a buffer containing 250 mM sucrose, 10 mM HEPES-Tris (pH 7.5), and 250 μM EDTA. Cell debris was removed by centrifugation at 10,000 g for 30 minutes. The mitochondria were washed with the sucrose/HEPES buffer without EDTA.

Mitochondrial membrane potential was measured as described by Kroemer, G., Zamzam, N. and Susin, S.A., "Mitochondrial control of apoptosis", (Review) *Immunology Today* (1997) v.18, p 44–51; with JC-1 dye-see Salvioli et.al., "JC-1, but not DiOC6(3) or rhodamine 123, is a reliable fluorescent probe to assess delta psi changes in intact cells: implications for studies on mitochondrial functionality during apoptosis", FEBS Letters 411 (1), 77–82. 1987. JC-1 fluorescence in the suspension of purified mitochondria from normal and ischemic kidneys was monitored continuously on a Deltascan Model RFM-2001 spectrofluorimeter (Photon Technology International, South Brunswick, N.J.). The excitation wavelength was 490 nm (slit width 2 nm) and the emission wavelength was 590 nm (slit width 4 nm). The signals were recorded using Felix® (Version 1.1) software. All measurements were performed with continuous stirring at 37° C. The incubation buffer for measurement of mitochondrial membrane potential contained 200 mM sucrose, 5 mM $MgCl_2$, 5 mM KH_2PO_4, 0.1 μM of JC-1 and 30 Mm HEPES-Tris (pH 7.5). The concentrations of the substrate and inhibitors were 10 mM succinate, 0.1 μM rotenone with or without 0.1 μM FCCP. Proximal tubule mitochondrial membrane potential was estimated in the right (control) kidney prior to ischemia and in the left (ischemic) kidney after sacrifice of the dogs on day 6 following ischemia and was estimated as difference of JC-1 fluorescence after uncoupling of mitochondria with FCCP as shown in the accompanying FIG. 4A. For each measurement, 50 μg protein of purified material was used.

JC-1 fluorescence is proportional to the mitochondrial membrane potential. The contralateral nephrectomized kidney served as control. As is clear from the FIG. 4B, the treatment process of the invention did not modify the membrane potential of the non-ischemic control right kidney ($p=445$ for treated vs saline). However, the ischemic kidney of the saline-injected animals showed significantly lower ($p<0.05$) fluorescence compared to the control kidney. The stress treatment according to the invention prevented the uncoupling of mitochondria during ischemic/reperfusion, and membrane potential showed no significant difference ($p=0.244$) between ischemic and control kidneys. This parameter remained significantly higher ($p=0.0006$) vs saline-injected dogs) in the ischemic kidneys of dogs pretreated according to the process of the invention for at least 6 days post-reperfusion.

These results indicate that the process of the invention effects protection of the kidney against apoptosis and/or accelerates recovery at the mitochondrial level. Accordingly the process of the invention is indicated for reconditioning of the cells, tissues and organs of a mammalian body against subsequently encountered factors which will normally accelerate apoptosis.

Specifically, the preservation of mitochondrial membrane potential evidences the capacity of the therapy to protect mitochondria, and thereby to precondition cells against apoptosis.

EXAMPLE 5

A group of 12 male SHR rats was treated with either injections of pooled blood stressed as described in Example 4 above, or, in control animals, with injections of saline. Since the blood from all of the animals of this genetic strain is identical, blood from one animal of this same strain was treated by the process of the invention for administration to the test animal. The blood was treated with sodium citrate as anti-coagulant, and placed in a sterile container They received either injections of 150 μl of stressed blood on days −14 and −13 followed by a rest period of 11 days and a third injection the day before ischemic surgery, or injections in parallel with saline. On the day of surgery, the rats were anaesthetized with light flurane, and the right kidney was removed through a mid-abdominal incision. The left kidney was then subjected to transient ischemia by occlusion of the left renal artery and vein using a micro-clip. The skin was then temporarily closed. After 60 minutes of occlusion, the clip was removed and the wound was closed with a suture. The animals were sacrificed 12 hours after reperfusion.

The ischemic and non-ischemic kidneys of the test animals were removed and subjected to DNA laddering tests. Oligonucleosomal DNA fragmentation into 180 to 200 base pairs is a specific pattern which appears as a ladder after agarose gel electrophoresis in various organs undergoing apoptosis. To estimate the degree of DNA fragmentation in the kidney cortex, an aliquot of pulverized kidney cortex was weighed and total tissue DNA was extracted by the phenol chloroform procedure after tissue digestion with proteinase K and RnaseA in the presence of EDTA. One μg of extracted DNA was labeled by enymatic assay using terminal deoxynudeotidyl transforase with P^{32}-dCTP (see

Teiger et.al., 'Apoptosis in pressure overload-induced heart hypertrophy in the rat,' *J. Clin. Invest* 97,2891–2897, 1996). Increasing quantities of radio-labelled DNA were loaded onto 1.5% agarose gels. After electrophoresis. DNA was transferred onto nylon membranes (Hybond) and the radioactivity associated with 150 to 1500 bp DNA fragments was quantified in a PhosphorImager (Molecular Dynamics). A regression line for each sample was drawn for the radioactivity as a function of DNA loaded on the gel (see deBlois et.al., 'Smooth muscle cell apoptosis during vascular regression in spontaneously hypertensive rats.' *Hypertension* 29, 340–349, 1997). The slope of the linear regression line served as a DNA fragmentation index (cpm/pixel per μg DNA).

The results from ischemic-reperfused (I/R) kidneys and from normal, non-IR kidneys, all from animals which did not receive injections of stressed blood, are shown graphically on FIG. 5, a plot of the slope of the regression lines for the various samples (vertical axis) against time after initiation of reperfusion. The DNA laddering, indicative of DNA fragmentation, was dearly increased in the ischemic kidney cortex compared to the contralateral non-ischemic organ and the maximal attained at twelve hours returned to near basal values by 48 hours. Twelve hours was thus selected as the tine point for study of the effect of the stressed blood of the invention on early ischemia-induced renal apoptosis.

FIG. 6A of the accompanying drawings is a picture of the electophoresis gel of the fragmented DNA, in the 150–1500 bp range, radio-labeled as described to attach radioactivity labels to the DNA fragments. Trace S derives from DNA of kidneys from animals which received saline injections prior to kidney ischemia-reperfusion, and trace V derives from DNA of kidneys of animals which received injections of the stressed blood prior to kidney ischemia-reperfusion. The Figure shows that 60 minutes renal ischemia induced a dear accumulation of fragmented DNA in both groups of rats at 12 h but the level of this parameter was significantly lower ($p<0.05$) in animals receiving the treated blood. FIG. 6B quantifies the amount of irradiation from the samples, in arbitrary units, and shows that DNA fragmentation-laddering occurs in both S and V samples as a result of ischemia/reperfusion, but that the extent is markedly reduced in V samples as compared with S samples. The results presented on FIG. 6B are the means of six animals in each case.

These results confirm that the cytoprotective effect of the administration of stressed blood according to the invention on renal reperfusion injury involves the inhibition of early or late apoptosis.

The ability of the treatment of the invention in reducing apoptosis in the kidney following ischemia/reperfusion during the early phase of apoptosis (after 12 hours) as determined by DNA laddering and density of apoptotic nuclei stained by Tdt is shown in FIGS. 7 and 8, respectively. As well, FIG. 3B shows that cell numbers in the kidney following ichemia/reperfusion were also significantly higher in the animals treated according to the invention.

EXAMPLE 6

This example describes the treatment of a small number of human patients with advanced chronic congestive heart failure. The patients had NYHA class III–IV chronic congestive heart failure with a left ventricular ejection fraction (LVEF) of less than 40% and a 6 minute walk distance of less than 300 m. Some of the patients had previously received other CHF treatments.

Protocol:

Patients receive a number of injections of treated blood. The 30 treatment schedule comprises injections on days 1, 2 and 14, followed by a single injection every 30 days for 5 months, each injection having a volume of 10 ml. Each individual treatment comprises the following steps: 1. Collection of 10 ml of a patient's own venous blood into 2 ml of 3–4% sodium citrate for injection, USP. The sodium cirate is added to the sample to prevent the blood from coagulating during the treatment 2. Transfer of the citrated blood sample to a sterile, disposable, low-density polyethylene vessel. 3. Ex vivo treatment of the blood sample by simultaneous exposure to;

an elevated temperature of 42.5±1.0° C.

a gas mixture of medical grade oxygen containing 14.5±1.0 μg/ml of ozone which is bubbled through the blood sample at a flow rate of 240±24 ml/min (at STP); and

ultraviolet light at a wavelength of 253.7 nm. 4. Transfer of the blood sample from the sterile disposable container to a sterile syringe. 5. Intramuscular injection of 2 ml or 10 ml of the treated blood sample into the gluteal muscle of the same patient, following a local anaesthetic (1 mL of 2% Novocain or equivalent) at the injection site.

The ex vivo treatment of the blood sample described in step (3) above is performed with an apparatus as generally described In U.S. Pat. No. 4,968,483 to Mueller et al. The blood sample is simultaneously exposed to all three stressors for a period of 3 minutes.

Assessment of CHF:

Patients are monitored for adverse events during each visit. As well, a post-treatment follow-up is conducted to monitor survival, hospitalizations, and significant adverse events.

The primary endpoints used to assess the effectiveness of the treatment are changes in 6-minute walking distance and/or NYHA functional classification. Secondary endpoints include: improvement in cardiac function, reduction in diuretic requirement, reduction in hospitalization stay; and improvement in symptoms.

As demonstrated by the data described above, the treatment of the present invention has been shown to have significant biological activity in humans and in a number of animal model systems, all of which involve Th1/TNF-α dependent inflammatory responses. As mentioned above, it is believed that the treatment down-regulates the pro-inflammatory Th1-type immune response, for example by Increasing anti-inflammatory TH2 type cytokines, including IL-10. This would at least partially explain the ability of the treatment of the invention to produce therapeutic benefits in each of the three areas which characterize CHF.

Furthermore, there is evidence to suggest that the treatment of the invention is IL-10 dependent (FIG. 9 and Shahid S. et al., *Journal of Investigative Dermatology* 14, No.4, 2000), briging about an up-regulation of ant-inflammatory cytokines such as IL-10, and a down-regulation of TH-1 driven immune responses. It has also been proposed that IL-10 may be an important component of the cytokine network in CHF, as there appears to be a reduction in the level of IL-10 in relation to TNF-α in CHF (Yamaoka et al., *Jpn Circ J* 63: 951–956).

Although the invention has been described with reference to specific preferred embodiments, it will be appreciated that many variations may be made to the invention without departing from the spirit or scope thereof. All such modifications are intended to be included within the scope of the following claims.

What is claimed is:

1. A method of treating congestive heart failure (CHF) in a human patient suffering therefrom, comprising:

(a) treating an aliquot of the patient's blood ex vivo with a stressor comprising a liquid oxidizing agent; and

(b) administering the aliquot of blood treated in step (a) to the patient, wherein the aliquot has a volume sufficient to treat CHF in the patient.

2. The method of claim 1, wherein said stressor further comprises electromagnetic emissions and/or a temperature above or below body temperature.

3. The method of claim 1, wherein the liquid oxidizing agent is introduced into the blood aliquot in an amount which does not give rise to excessive levels of cell damage.

4. The method of claim 2, wherein the electromagnetic emission comprises ultraviolet light having one or more UV-C band wavelengths.

5. The method of claim 2, wherein the temperature to which the aliquot is cooled or heated is a temperature which does not result in substantial hemolysis of the blood in the aliquot.

6. The method of claim 5, wherein the mean temperature of the blood in the aliquot is in the range of from about 0° C. to about 36.5° C.

7. The method of claim 5, wherein the mean temperature of the blood in the aliquot is in the range of from about 10° C. to about 30° C.

8. The method of claim 5, wherein the temperature is in the range of from about 40° C. to about 50° C.

9. The method of claim 8, wherein the temperature is 42.5±1° C.

10. The method of claim 1, wherein the volume of the aliquot is up to about 400 ml.

11. The method of claim 10, wherein the volume of the aliquot is about 10 ml.

12. The method of claim 10, wherein the volume of the aliquot is about 2 ml.

13. The method of claim 1, wherein the aliquot is subjected to the stressor for a period of up to about 60 minutes.

14. The method of claim 13, wherein the aliquot is subjected to the stressor for a period of about 3 minutes.

15. The method of claim 1, wherein the blood is administered to the mammal by a method suitable for vaccination selected from the group consisting of intra-arterial injection, intramuscular injection, intravenous injection, subcutaneous injection, intraperitoneal injection, and oral, nasal or rectal administration.

16. The method of claim 2, wherein all of the stressors are simultaneously administered to the aliquot.

17. The method of claim 2, wherein any two of the stressors are simultaneously administered to the aliquot.

18. A combination treatment for congestive heart failure (CHF) in a human patient suffering therefrom, the combination treatment including the administration to the patient of an aliquot of the patient's own blood which has been treated ex vivo with a stressor comprising a liquid oxidizing agent and the administration of an agent selected from the group consisting of nitrates, β-blockers, ACE inhibitors, AT receptor blocking agents, aldonsterone antagonists, calcium channel blocking agents, suppressors of production of TNF-α, sodium and fluid restriction, diuretics and digitalis wherein the aliquot has a volume sufficient to treat CHF in the patient.

19. The combination treatment of claim 18, wherein the suppressors of production of TNF-α are selected from the group consisting of pentoxifyline, TACE inhibitors, amrinone, adenosine, thalidomide and dexamethasone.

20. A method of treating congestive heart failure (CHF) in a human patient suffering therefrom, comprising:

(a) treating an aliquot of the patient's blood ex vivo simultaneously, for a time from about 2–5 minutes, with a combination of stressors comprising (1) a liquid oxidizing agent; (2) ultraviolet light having one or more UV/C band wavelengths; and (3) temperature in the range of from about 37° C. to about 55° C.; and

(b) administering the aliquot of the blood treated in step a) to the patient, wherein the aliquot has a volume sufficient to treat the CHF in the patient.

* * * * *

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OFFICE OF PETITIONS

In re Application of	:	
Johnston et al.	:	DECISION ON PETITION
Application No. 10/278,921	:	UNDER 37 CFR 1.78(a)(6)
Filed: 24 October, 2002	:	
Atty Docket No. 2001-0415A	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on 23 June, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

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

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

The instant pending nonprovisional application was filed on 24 October, 2002.

The petition must be dismissed because the instant nonprovisional application was not filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/313,121, which was filed on 17 August, 2001, and for which priority is claimed. In order to claim benefit of the provisional application, the instant nonprovisional application would need to have been filed within 12 months of 17 August, 2001. As such, the instant application is not entitled to claim the benefit of provisional Application No. 10/278,921.

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

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.
>
> In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-

filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] addressing the deficiencies noted above, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* 37 CFR 1.121

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/278,952	10/23/2002	Jungahn Kim	8111-018-999	8585

20583 7590 11/29/2006

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

EXAMINER	
HARLAN, ROBERT D	
ART UNIT	**PAPER NUMBER**
1713	

DATE MAILED: 11/29/2006

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11-29-06

In re Application of	:	
Jungahn Kim et al	:	WITHDRAWAL
Serial No. 10/278,952	:	FROM ISSUE
Filed: October 23, 2002	:	UNDER 37 CFR1.313(b)

For: NANO-SIZED METALS OR METAL SALTS STABILIZED BY USING CHAIN-END FUNCTIONALIZED POLYMERS AND THEIR SYNTHETIC METHODS:

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to David Wu at 571-272-1114.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700/2900
Chemical and Materials Engineering

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yoshinobu Ono, et al. :
Application No. 10/278,979 :
Filed: October 24, 2002 :
Atty Docket No. Q72499 :

This is a decision on the petition, filed November 5, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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 2814 for further processing of the request for continued examination under 37 CFR 1.114 filed November 5, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of :
Hajime Kimura :
Application No. 10/279,000 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. 12732-123001 / US6024

This is a decision on the petition, filed November 15, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 16, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Fish & Richardson P.C.
1425 K Street N.W., 11th Floor
Washington, DC 20005-3500

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

033018-124
PKS

In re Application of
Kenneth A. Cox et al
Application No. 10/279,035
Filed: October 24, 2002
Attorney Docket No. 033018-124

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed May 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Upon receipt of the file in the Office of Petitions and association of the instant petition, RCE, IDS and decision on petition with the file, the file will be forwarded to Technology Center AU 3742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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OFFICE OF PETITIONS

In re Application of :
Kenneth A. Cox et al :
Application No. 10/279,035 : DECISION GRANTING PETITION
Filed: October 24, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 033018-124 :

This is a decision on the petition, filed May 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Upon receipt of the file in the Office of Petitions and association of the instant petition, RCE, IDS and decision on petition with the file, the file will be forwarded to Technology Center AU 3742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
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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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In re Application of :
Rangel etal :
Application No. 10/279,044 :
Filed: October 23, 2004 :
Attorney Docket No. J&J2142 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed April 26, 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 July 27, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3743.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Shmuel Peleg et al. :
Application No. 10/279,097 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. 1268-045B :

This is in response to the paper filed March 27, 2006 requesting that status as a Small Entity be removed and for acceptance of a fee deficiency submission. The paper is being treated as a petition 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.33d 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 and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/279,098	10/24/2002	Masaaki Muto	229719US3CONT	1495

22850 7590 02/25/2005

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
SAETHER, FLEMMING	

ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 02/25/2005

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Gregory J. Maier
Oblon, Spivak, McClelland, Maier & Neustadt, P. C.
Fourth Floor
1755 Jefferson Davis Hwy
Arlington, VA 22202

February 10, 2005

In Re Application of :	Masaaki Muto	: Decision on Petition
Serial No.:	10/279098	: Under 37 CFR 1.181
Filed:	October 24, 2002	: Compel Consideration
For:	TUBE JOINT AND APPARATUS FOR PRODUCING THE SAME	: of IDS

Decision on Petition

The petition filed 12/27 04 requests supervisory to invoke the Examiner to consider the IDS filed August 20, 2004.

An information disclosure statement was submitted January 24, 2003, prior to examination, which did not require a fee or IDS petition, which was properly considered by the Examiner and made of record on December 20, 2004.

Another information disclosure statement was submitted August 1, 2003 after a non-final rejection, which was charged a fee of $180.00, and which was properly considered by the Examiner and made of record September 27, 2004.

Another information disclosure statement was submitted May 28, 2004 after a final rejection, which included a petition and petition fee to be considered, which was properly considered by the Examiner and made of record September 27, 2004.

A final information disclosure statement was submitted August 20, 2004 after a final rejection, which included a petition and authorization to charge the petition fee. No fee was charged, and the examiner did not consider the information disclosure statement. The instant petition is to compel the examiner to consider the August 20, 2004 IDS.

Since the final information disclosure statement contains a proper authorization to charge the IDS fee, the fee will now be charged. Once the fee is charged, the Examiner will review the IDS, and make it of record.

Petition **GRANTED**.

J. J. Swann
SPE, AU 3677

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tsutomu Takatsuka et al :
Application No. 10/279,117 :
Filed: October 24, 2002 :
Attorney Docket No. 074129-0496 :

This is a decision on the petition, filed November 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Daniel M. Cislo
Cislo & Thomas, LLP
233 Wilshire Blvd.
Suite 900
Santa Monica, CA 90401-1211

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APR 23 2007

OFFICE OF PETITIONS

In re Application of :
Robert S. Segelbaum :
Application No. 10/279,137 : DECISION ON PETITION
Filed: October 22, 2002 : TO WITHDRAW
Attorney Docket No. 02-11224 : 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 8, 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 Daniel M. Cislo on behalf of all attorneys of record who are associated with customer No. 25189. All attorneys/agents associated with the Customer Number 25189 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the sole inventor Steven S. Segelbaum at the address listed in the Declaration of the application. A courtesy copy of this decision is being mailed to the address appearing on the request to withdraw as attorney.

A final rejection was mailed on November 29, 2006 setting a three month shortened period for reply. Extensions of time are available under the provisions of 37 CFR 1.136(b). Failure to timely file a proper reply will result in the abandonment of the application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Robert S. Segelbaum
24100 El Toro Road, Suite D
Laguna Woods, CA 92653

cc: Robert S. Segelbaum
c/o Restaurant La Providence
Ccial PLEIN-SUD, Zone Dizac
Diamant Plage 97223 La Diamant
MARTINIQUE

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/279,137	10/22/2002	Robert S. Segelbaum	02-11224

CONFIRMATION NO. 9368

OC000000023288579

25189
CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA, CA 90401-1211

Date Mailed: 04/09/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Gravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Donald E. Husby	: DECISION ON REQUEST FOR
Patent Number	: 7610440	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/279,154	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1002** 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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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 05/18/2010

Applicant : Donald E. Husby
Patent Number : 7610440
Issue Date : 10/27/2009
Application No: 10/279,154
Filed : 10/23/2002

: 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 **1042** 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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ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Ronald J. Perrella	:	
Application No. 10/279,156	:	DECISION ON PETITION
Filed: October 24, 2002	:	TO WITHDRAW
Attorney Docket No. BELL-0203/01285	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. 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.

This application is being referred to Technology Center AU 2617 to await a reply to the final Office action mailed March 27, 2006.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: LEE & HAYES
421 W. RIVERSIDE AVE
SUITE 500
SPOKANE, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 5

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of:
Gregory Bollella, Benjamin M. Brosgol, Scott D. Robbins, David S. Hardin and Peter Dibble
Application No. 10/279,168
Filed: October 23, 2002
Title of Invention: SYSTEM AND METHOD FOR ASYNCHRONOUS TRANSFER OF CONTROL

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Petition filed January 21, 2003, 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.

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, Benjamin M. Brosgol, 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
Washington, D.C. 20231
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Mr. Benjamin M. Brosgol
79 Tobey Road
Belmont, MA 02478

In re Application of:
Gregory Bollella, Benjamin M. Brosgol, Scott D. Robbins, David S. Hardin and Peter Dibble
Application No. 10/279,168
Filed: October 23, 2002
Title of Invention: SYSTEM AND METHOD FOR ASYNCHRONOUS TRANSFER OF CONTROL

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MAR 3 1 2003

OFFICE OF PETITIONS

LETTER

Dear Mr. Brosgol:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods 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: MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

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JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND, CA 94612

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OFFICE OF PETITIONS

In re Application of :
Steve Troth, et. al. :
Application No. 10/279,177 : DECISION GRANTING
Filed: October 23, 2002 : PETITION
Attorney Docket No. SST/1267 :

This is a decision on the petition, filed April 3, 2009, requesting that the response filed by Express Mail on January 26, 2009 be considered as timely filed.

This application was held abandoned for failure to timely respond to the non-final Office action mailed July 24, 2008[1]. A Notice of Abandonment was mailed on February 5, 2009.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of **two** return receipt postcards, one which contains Express Mail receipt No. EV93950148US, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on January 26, 2009 of, *inter alia,* an amendment, a supplemental Information Disclosure Statement (IDS), an Information Disclosure Listing and a return receipt postcard. The other return receipt postcard contains Express Mail receipt No. EV939520134US and a date stamp by the USPTO acknowledging receipt of all the items listed above, including a check in the amount of $1,290.

MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

Additionally, a review of the record discloses that an amendment, supplemental IDS, an Information Disclosure Listing and a check in the amount of $1,290 was timely submitted on January 26, 2009.

[1] Since the response due date fell on January 24, 2009, which was a Saturday, the response was due on the next succeeding business day of Monday, January 26, 2009.

In view of the above, the petition is **granted** and the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application file is being referred to Technology Center Art Unit 3633 **for re-mailing of the final Office action mailed on April 15, 2009**.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

LAW OFFICES OF JAMES R. CYPHER
409 13TH STREET, 11TH FLOOR
OAKLAND, CA 94612

In re Application of
Steve Troth, et al.
Application No. 10/279,177
Filed: October 23, 2002
Attorney Docket No. SST/1267

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 31, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 1, 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 January 2, 2010.

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 $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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 $1110 extension of time fee submitted with the petition on May 31, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3633 for appropriate action by the Examiner in the normal course of business on the reply received May 31, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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LAW OFFICES OF CHARLES E. KRUEGER
P O BOX 5607
WALNUT CREEK, CA 94596-1607

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MAY 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Bilal Ahmad :
Application No. 10/279,191 : DECISION GRANTING PETITION
Filed: October 22, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 002-18:CSN 6476 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2003, to accept an unintentionally delayed payment of the issue fee.

The petition is **GRANTED**.

No Notice of Abandonment has been mailed in this application. However, this application became abandoned by operation of law for failure to timely pay the issue fee on or before October 8, 2003, as required by the Notice of Allowance and Fee(s) Due mailed July 8, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 (703) 305-8680.

This matter is being forwarded to Publishing Division.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

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OFFICE OF PETITIONS

In re Application of :
Col et al. : DECISION ON PETITION
Application No. 10/279,205 :
Filed: October 22, 2002 :
Attorney Docket No. CNTR.2018 :

This is a decision on the petition, filed March 18, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the present 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 **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 states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that 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.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and,
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition lacks item (1) above. In the present petition, petitioner did not indicate the filing date of the subsequently filed foreign or international application. The Office is unable to evaluate the petition on its merits without petitioner providing the correct filing date of the foreign or international application. This information must be provided with any renewed petition. Accordingly, the present application remains abandoned.

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: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Col et al. : DECISION ON PETITION
Application No. 10/279,205 :
Filed: October 22, 2002 :
Attorney Docket No. CNTR.2018 :

This is a decision on the renewed petition, filed April 20, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 3, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and,

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt, which sets forth the projected publication date of June 30, 2005, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2183.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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1832 N. CASCADE AVE.
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JUN 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Col, et al.	:	
Application No. 10/279,206	:	DECISION
Filed: 22 October, 2002	:	
Attorney Docket No. CNTR.2027	:	

This is a decision on the petition, filed 18 March, 2005, and supplemented on 27 June, 2005, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on 17 September, 2003. Moreover, Petitioner submitted the instant petition (with recision request) 18 March, 2005, upon learning of the error.

Thus, Petitioner alleges unintentional failure to notify the U.S. Patent and Trademark Office of this filing of the subject application in a foreign country within 45 days of that filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §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 C.F.R. §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 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of 6 October, 2005, accompanies this decision.

This application is being released to Technology Center 2100 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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

HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Col et al. :
Application No. 10/279,207 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. CNTR.2026 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2005, 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 **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 states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that 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.

A petition to revive an application abandoned pursuant to
35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and,
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition lacks item (1) above. In the present petition, petitioner did not indicate the filing date of the subsequently filed foreign or international application. The Office is unable to evaluate the petition on its merits without petitioner providing the correct filing date of the foreign or international application. This information must be provided with any renewed petition. Accordingly, the present application remains abandoned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision 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
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AUG 15 2005

OFFICE OF PETITIONS

In re Application of :
Col et al. :
Application No. 10/279,207 : ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. CNTR.2026 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 20, 2005, 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).

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 director may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date accompanies this decision on petition.

Telephone inquiries regarding this decision 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
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JUN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Col et al.	:	DECISION ON
Application No. 10/279,208	:	PETITION
Filed: October 22, 2002	:	
Atty Docket No. CNTR.2019	:	
	:	

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed February 24, 2005, which is properly treated as a petition to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f). This decision is made in light of the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f)), filed June 2, 2005.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a corresponding foreign or international application filed August 26, 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 foreign or international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request to show the projected publication date of September 22, 2005 accompanies this decision on petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication 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
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Paper No. 7

JAMES W HUFFMAN
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

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JUL 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Gene K. Frydel :
Application Serial No.: 10/279,209 : ON PETITION
Filing Date: October 22, 2002 :
Attorney's Docket No.: CNTR.2061 :

This is a decision on the petition under 37 CFR 1.137(a) to revive the above-cited application . The petition was filed on June 20, 2003.

The petition is **GRANTED.**

A Notice of Missing Parts of Nonprovisional Application ("Notice") was mailed on November 29, 2003, requiring the filing fee for the above-cited application, a proper oath or declaration pursuant to 37 CFR 1.63, and the surcharge for the late filing of the oath or declaration. Believing a complete reply to the Notice was not received, the Office mailed a "Notice of Incomplete Reply" on June 13, 2003, which indicated that a proper oath or declaration was still outstanding and that an additional $528.00 in claims fee was also due.

The instant petition was then filed on June 20, 2003 wherein petitioner established that a proper oath or declaration had been submitted previously on, or about December 30, 2002, and that the oath or declaration was attached to the assignment that was also filed that day.

The application file will be forwarded to the Office of Initial Patent Examination for further processing.

Inquiries related to this decision may be made to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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NOV 0 9 2009

OFFICE OF PETITIONS

In re Application :
Michael Gottlieb Jensen :
Application No. 10/279,210 : DECISION ON APPLICATION
Filed: October 22, 2002 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **1778.3000000** :
(0154.00US)

This is in response to the Request for Reconsideration of Patent Term Adjustment Determination Under 37 C.F.R. § 1.705(b) filed May 20, 2009. Applicant requests that the determination of patent term adjustment be corrected from 256 days to 679 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008) as well as for additional reductions asserted by the Office.

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, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**. To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED-in-part**. The Office will adjust the PTA calculation at the time of the notice to reflect a determination of 373 days.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

With respect to the over 3 year calculation, rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED-in-part**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred seventy-three **(373)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 13, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 256 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

The Office initially determined a patent term adjustment of two hundred fifty-six (256) days based on an adjustment for PTO delay of six hundred twenty-seven (627) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) reduced by applicants' delay of three-hundred seventy-one (371) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 627 days has been reviewed and found to be correct. The reduction of three hundred seventy-one (371) days of applicant delay is at issue.

[1] PALM records indicate that the issue fee was paid on July 13, 2009.

Applicants argue that reductions for duplicate periods of delay have been entered in the amount of 90 days for a response after non-final action on January 23, 2008, and in the amount of 27 days for the filing of a Request for Continued Examination (RCE) on July 7, 2008 for a total of 117 days.

Applicant's argument is persuasive. Duplicate reductions for the response after non-final action on January 23, 2008 and the RCE filed July 7, 2008 were entered. Thus, instead of a 371 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 254 days should have been accorded.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance should have been 373 days rather than 256 days listed on the notice of allowance.

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 petition fee in the amount of $200.00 as set forth in 37 CFR 1.18(e) has been deducted from deposit account no. 19-0036, as authorized.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

Enclosure: Copy of Revised PTA Calculation

PTA Calculations for Application: 10/279210			
Application Filing Date:	10/22/2002	PTO Delay (PTO):	627
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	371
Post-Issue Petitions:	0	Total PTA (days):	373
PTO Delay Adjustment:	117		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
144	11/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	117		
138	04/13/2009	MAIL NOTICE OF ALLOWANCE			
137	04/12/2009	ISSUE REVISION COMPLETED			
136	04/12/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
135	04/12/2009	DOCUMENT VERIFICATION			
134	04/12/2009	NOTICE OF ALLOWABILITY			
133	02/09/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
132	02/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
131	02/10/2009	DATE FORWARDED TO EXAMINER			
130	02/09/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
129	02/10/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
128	02/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
127	02/09/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
126	11/14/2008	EXPORT TO INITIAL DATA CAPTURE			
125	11/12/2008	MAIL NOTICE OF ALLOWANCE			
125	11/12/2008	MAIL NOTICE OF ALLOWANCE			
124	11/08/2008	ISSUE REVISION COMPLETED			
124	11/08/2008	ISSUE REVISION COMPLETED			
123	11/08/2008	DOCUMENT VERIFICATION			
123	11/08/2008	DOCUMENT VERIFICATION			
122	11/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

122	11/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
121	11/07/2008	NOTICE OF ALLOWABILITY			
121	11/07/2008	NOTICE OF ALLOWABILITY			
120	10/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
120	10/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
119	10/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
119	10/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
118	10/20/2008	DATE FORWARDED TO EXAMINER			
118	10/20/2008	DATE FORWARDED TO EXAMINER			
117	10/16/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
117	10/16/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
116	10/20/2008	DATE FORWARDED TO EXAMINER			
116	10/20/2008	DATE FORWARDED TO EXAMINER			
115	10/16/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
115	10/16/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
114	10/20/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
114	10/20/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
113	10/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
113	10/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
112	10/16/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
112	10/16/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
111	08/22/2008	EXPORT TO INITIAL DATA CAPTURE			
111	08/22/2008	EXPORT TO INITIAL DATA CAPTURE			
110	08/20/2008	MAIL NOTICE OF ALLOWANCE			
110	08/20/2008	MAIL NOTICE OF ALLOWANCE			
109	08/18/2008	ISSUE REVISION COMPLETED			
109	08/18/2008	ISSUE REVISION COMPLETED			
		NOTICE OF ALLOWANCE DATA VERIFICATION			

108	08/18/2008	COMPLETED			
108	08/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
107	08/18/2008	DOCUMENT VERIFICATION			
107	08/18/2008	DOCUMENT VERIFICATION			
106	08/18/2008	NOTICE OF ALLOWABILITY			
106	08/18/2008	NOTICE OF ALLOWABILITY			
105	07/14/2008	DATE FORWARDED TO EXAMINER			
105	07/14/2008	DATE FORWARDED TO EXAMINER			
104	07/07/2008	RCE- AF PROCESSED			
104	07/07/2008	RCE- AF PROCESSED			
103	07/14/2008	DATE FORWARDED TO EXAMINER			
103	07/14/2008	DATE FORWARDED TO EXAMINER			
102	07/07/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		27	86
102	07/07/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		27	86
101	07/14/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
101	07/14/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
100	07/07/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
100	07/07/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
99	06/11/2008	MAIL ADVISORY ACTION (PTOL - 303)			
99	06/11/2008	MAIL ADVISORY ACTION (PTOL - 303)			
98	06/09/2008	ADVISORY ACTION (PTOL-303)			
98	06/09/2008	ADVISORY ACTION (PTOL-303)			
97	06/09/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
97	06/09/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
96	06/06/2008	CORRESPONDENCE ADDRESS CHANGE			
96	06/06/2008	CORRESPONDENCE ADDRESS CHANGE			
95	06/06/2008	DATE FORWARDED TO EXAMINER			
95	06/06/2008	DATE FORWARDED TO EXAMINER			
94	06/04/2008	AMENDMENT AFTER FINAL REJECTION			
94	06/04/2008	AMENDMENT AFTER FINAL REJECTION			
93	04/04/2008	EMAIL NOTIFICATION			
93	04/04/2008	EMAIL NOTIFICATION			

92	04/04/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
92	04/04/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
91	03/18/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
91	03/18/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
90	03/31/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
90	03/31/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
88	03/13/2008	ELECTRONIC REVIEW			
88	03/13/2008	ELECTRONIC REVIEW			
87	03/12/2008	EMAIL NOTIFICATION			
87	03/12/2008	EMAIL NOTIFICATION			
86	03/10/2008	MAIL FINAL REJECTION (PTOL - 326)			
86	03/10/2008	MAIL FINAL REJECTION (PTOL - 326)			
85	02/29/2008	FINAL REJECTION			
85	02/29/2008	FINAL REJECTION			
84	02/01/2008	DATE FORWARDED TO EXAMINER			
84	02/01/2008	DATE FORWARDED TO EXAMINER			
83	01/23/2008	RESPONSE AFTER NON-FINAL ACTION		90	79
83	01/23/2008	RESPONSE AFTER NON-FINAL ACTION		90	79
82	01/09/2008	EMAIL NOTIFICATION			
82	01/09/2008	EMAIL NOTIFICATION			
81	01/09/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
81	01/09/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
80	10/31/2007	DATE FORWARDED TO EXAMINER			
80	10/31/2007	DATE FORWARDED TO EXAMINER			
79.1	10/25/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
79	10/25/2007	RESPONSE AFTER NON-FINAL ACTION		30	75
78	10/25/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
77	06/28/2007	ELECTRONIC REVIEW			
76	06/27/2007	EMAIL NOTIFICATION			
75	06/25/2007	MAIL NON-FINAL REJECTION			

74	06/19/2007	NON-FINAL REJECTION			
73	05/14/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	05/14/2007	REFERENCE CAPTURE ON IDS			
71	05/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
70	06/09/2007	DATE FORWARDED TO EXAMINER			
69	05/14/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
68	06/09/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
67	05/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	05/14/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
65	03/16/2007	FINISHED INITIAL DATA CAPTURE			
64	02/23/2007	EXPORT TO INITIAL DATA CAPTURE			
63	03/01/2007	MAIL POST CARD			
62	02/21/2007	EMAIL NOTIFICATION			
61	02/14/2007	MAIL NOTICE OF ALLOWANCE			
60	02/14/2007	MAIL EXAMINER'S AMENDMENT			
59	02/08/2007	ISSUE REVISION COMPLETED			
58	02/08/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	02/02/2007	EXAMINER'S AMENDMENT COMMUNICATION			
56	02/02/2007	NOTICE OF ALLOWABILITY			
55	12/20/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	01/03/2007	DATE FORWARDED TO EXAMINER			
53	12/18/2006	RESPONSE AFTER NON-FINAL ACTION			
52	12/20/2006	REFERENCE CAPTURE ON IDS			
51.7	12/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		2	53
51	12/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	11/02/2006	MAIL NON-FINAL REJECTION			
49	10/30/2006	NON-FINAL REJECTION			
48	08/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	08/25/2006	DATE FORWARDED TO EXAMINER			
46	08/24/2006	AMENDMENT SUBMITTED/ENTERED WITH			

		FILING OF CPA/RCE			
45	08/25/2006	DATE FORWARDED TO EXAMINER			
44	08/24/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		15	33
43	08/25/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
42	08/24/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	08/24/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	08/18/2006	MAIL ADVISORY ACTION (PTOL - 303)			
39	08/16/2006	REFERENCE CAPTURE ON IDS			
38.7	08/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	08/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	08/16/2006	ADVISORY ACTION (PTOL-303)			
36	08/14/2006	DATE FORWARDED TO EXAMINER			
35	08/14/2006	AMENDMENT AFTER FINAL REJECTION			
34	08/14/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	05/09/2006	MAIL FINAL REJECTION (PTOL - 326)			
32	05/08/2006	FINAL REJECTION			
31	01/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	09/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	06/07/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	11/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	10/22/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	03/15/2006	DATE FORWARDED TO EXAMINER			
25	03/09/2006	RESPONSE AFTER NON-FINAL ACTION		90	20
24	03/09/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
23.7	01/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	01/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/19/2005	REFERENCE CAPTURE ON IDS			

21.7	09/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	09/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/09/2005	MAIL NON-FINAL REJECTION	627		-1
19	09/06/2005	NON-FINAL REJECTION			
18	08/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	06/07/2005	REFERENCE CAPTURE ON IDS			
16.7	06/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	03/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
14.7	11/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	05/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12.7	10/22/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	10/22/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/07/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	02/04/2003	APPLICATION DISPATCHED FROM OIPE			
9	02/04/2003	APPLICATION IS NOW COMPLETE			
8	01/16/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
5	01/16/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	12/18/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/11/2002	CLEARED BY L&R (LARS)			
2	10/29/2002	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

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MIPS Technologies, Inc.
955 East Arques Avenue
Sunnyvale, CA 94085-4521

Mail Date: 04/21/2010

Applicant	: Michael Gottlieb Jensen	: DECISION ON REQUEST FOR
Patent Number	: 7634638	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/279,210	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **851** 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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COLORADO SPRINGS, CO 80907-7449

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Col, et al. :
Application No. 10/279,212 : DECISION GRANTING PETITION
Filed: October 22, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CNTR.2029 :

This is a decision on the petition, filed April 18, 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 March 12, 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 August 11, 2005 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on April 6, 2005. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be submitted within the period set forth in the Notice to avoid abandonment of the application.

This application is being forwarded to Publishing Division to await a reply to the Notice of Publication Fee Due mailed May 6, 2005.

Telephone inquiries concerning this decision 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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OFFICE OF PETITIONS

In re Application of	:	
Tom Elmer	:	DECISION ON PETITION
Application No. 10/279,213	:	
Filed: 23 October, 2002	:	
Atty Docket No. CNTR.2060	:	

This is a decision on the petition, filed on 8 August, 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(s) filed on 23 October, 2003, and 13 January, 2004. 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.

A Notice of Allowability and a Notice of Allowance and Issue Fee Due were mailed in this case on 28 July, 2005. However, in view of the nonpublication request filed with the application, the Notice of Allowance mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 8 December, 2005, is enclosed herewith.

The application is being forwarded to Publishing division for further processing and to await petitioner's reply to the Notice of Publication Fee Due.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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Paper No. 7

JAMES W HUFFMAN
HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of
Col, et al.
Application No. 10/279,216
Filed: October 22, 2002
Attorney Docket No. CNTR.2028
For: PAIRED LOAD-BRANCH OPERATION FOR INDIRECT NEAR JUMPS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 17, 2003, to revive the above-identified application. The petition will be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

This application became abandoned for alleged failure to timely submit an executed declaration in response to the Notice to File Missing Parts of Nonprovisional Application, mailed December 2, 2002, which set a two(2) month, extendable period for reply. The December 2, 2002 Notice required petitioners to submit the statutory basic filing fee, an executed oath or declaration, and a surcharge for their late filing. The Office has a record of receiving the application filing fee and surcharge on December 30, 2002. However, the Office has no record of receiving an executed declaration. Therefore, the Office mailed a Notice of Incomplete Reply (Nonprovisional) on January 21, 2003. This Notice informed petitioners that the oath or declaration was still missing and stated that the period for reply continued to run from the December 2, 2002 Notice. No further reply was received. Thus, the Office contended that the application became technically abandoned on February 3, 2003.

Petitioners have presented evidence that an executed declaration was received in the Office on December 30, 2002. Specifically, on May 12, 2003, the Office mailed petitioner a Notice of Recordation of Assignment. This assignment was filed on December 30, 2002, along with petitioners' response to the December 2, 2002 Notice. The May 12, 2003 Notice of Recordation of Assignment was stapled to **a copy of the original declaration** allegedly filed on December 30, 2002. Given the fact that the Office could mail petitioners a copy of the allegedly missing declaration, it is obvious that the declaration was filed timely and misplaced in the Office.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Col, et al. :
Application No. 10/279,216 : DECISION ON PETITION UNDER
Application Filing Date: October 25, 2002 : 37 CFR 1.137(f)
Attorney Docket No. CNTR.2028

This is a decision on the petition under 37 CFR 1.137(f), filed August 15, 2005, which is being treated as petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that required publication of application eighteen months after filing.

The petition under 37 CFR 1.137(b) is granted.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 30, 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)92)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition is found in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The application file is being directed to Technology Center 2100, GAU 2183 for further processing.

Further inquiries regarding this decision 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 10/079217

DATE : 2-1-06

Paper No.: _____

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction on Patent No.: 6936050

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:

_____

_____

_____

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_____

SPE _____ 1713 Art Unit

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

Patent Number: 6,936,650 B2

Serial Number: 10/679,217

Filed: October 3, 2003

Inventors: Mannion 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 1:

Col. 16, line 59 replace "agent said, anti-caking" with "agent, said anti-caking"

Col. 16, line 60 replace "one or more selected" with "one or more substances selected"

The correct Claim 2 has been omitted. Replace the current Claim 2 with the following:

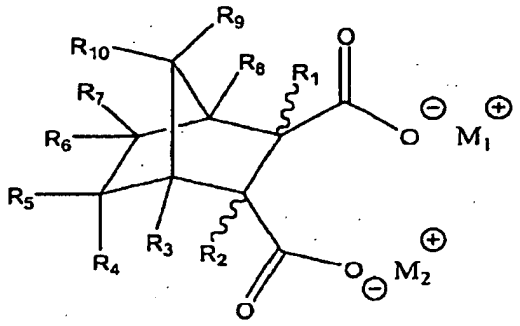
2. An additive formulation, wherein said additive formulation comprises in part:

(a) an anti-caking agent and

(b) a nucleating compound, wherein said nucleating compound conforms to the structure of:

PAGE 5/8 * RCVD AT 10/17/2005 3:56:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/26 * DNIS:2738300 * CSID:MILLIKEN CO. * DURATION (mm-ss):02-16

OCT 24 2005



wherein M_1 and M_2 are the same or different and are independently selected from the group consisting of metal cations; and

R_1, R_2, R_3, R_4, R_5, R_6, R_7, R_8, R_9, and R_{10} are independently selected from the group consisting of hydrogen C_1-C_9 alkyl, hydroxy, C_1-C_9 alkoxy, C_1-C_9 alkyleneoxy, amine, and C_1-C_9 alkylamine, halogen, phenyl, alkylphenyl, and C_1-C_9 carbocyclic

wherein said metal cations are selected from the group consisting of calcium, strontium, barium, magnesium, aluminum, silver, sodium, lithium, rubidium, and potassium

wherein said nucleating compound is provided in the form of particles, said particles having a D95 size range of less than or equal to 94 micrometers at a mean volume diameter (MVD) of about 16; and

wherein said anti-caking agent comprises one or more substances selected from the group consisting of: silica gel; talc, dihydrotacite; and metal carboxylates; and

PAGE 6/8 * RCVD AT 10/17/2005 3:56:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/26 * DNIS:2738300 * CSID:MILLIKEN CO. * DURATION (mm-ss):02-16

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wherein said anti-caking agent is provided in a weight ratio of anti-caking agent to nucleating compound of from about 10:90 to about 30:70.

Current Claim 2 should be renumbered 3. Current Claim 3 should be renumbered 4.

Col. 16, line 66 replace "of claim 1" with "of claim 2"

Col. 17, line 1 replace "of claim 1" with "of claim 2"

Current Claims 4-6 should be deleted. Claims 5 and 6 should read as follows:

5. The additive formulation of Claim 2 wherein said anti-caking agent comprises a silica gel.

6. A thermoplastic article comprising the additive formulation of Claim 1, said article further comprising at least one polyolefin.

Claim 7:

Col. 17, line 13 replace "of claim 1" with "of claim 2"

Current Claims 8-10 should be deleted. Claims 8-10 should read as follows:

8. The additive formulation of claim 2 wherein said nucleating compound comprises disodium[2.2.1]heptane-2,3-dicarboxylate.

PAGE 7/8 * RCVD AT 10/17/2005 3:56:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/26 * DNIS:2738300 * CSID:MILLIKEN_CO. * DURATION (mm-ss):02-16

OCT 24 2005

9. The additive formulation of claim 5 wherein said nucleating compound comprises disodium[2.2.1]heptane-2,3-dicarboxylate.

10. The additive formulation of claim 1 wherein said particles comprise a D95 size of less than or equal to about 10 microns at a mean volume diameter (MVD) of 7.5.

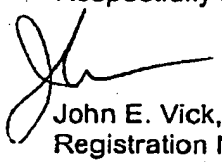
Claim 11:

Col. 18, line 25 replace "of claim 8" with "of claim 10"

Current Claim 12 should be deleted. Claims 12 should read as follows:

12. The additive formulation of claim 2 wherein said nucleating compound and anticaking agent are provided in a ratio of nucleating compound to anticaking agent of about 80:20.

Respectfully submitted,



John E. Vick, Jr.
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PAGE 8/8 * RCVD AT 10/17/2005 3:56:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/26 * DNIS:2738300 * CSID:MILLIKEN CO. * DURATION (mm-ss):02-16

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Paper No. 9

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ROUND LAKE IL 60073

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OFFICE OF PETITIONS

In re Application of
Mathias & Joie
Application No. 10/279,251
Filed: October 24, 2002
Attorney Docket No. F-5836 (0360-0128)
For: BIOLOGICAL SAMPLE DEVICE
RECEIVER

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 15, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Michel Joie, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the exhibits to the petition show that Mr. Joie received the application papers, including the specification, claims and drawings, but the inventor failed to respond to the request that he sign the declaration. According to Attorney Micheal C. Mayo, Mr. Joie was repeatedly contacted and has continued to decline to execute 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.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Michel Joie
Rue Camille Cals 13
Erange 5030
BELGIUM

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JUL 2 1 2003

OFFICE OF PETITIONS

In re Application of
Mathias & Joie
Application No. 10/279,251
Filed: October 24, 2002
Attorney Docket No. F-5836 (0360-0128)
For: BIOLOGICAL SAMPLE DEVICE RECEIVER

LETTER

Dear Mr. Joie:

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: MICHAEL C. MAYO, ESQ.
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Paper No. 10

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OFFICE OF PETITIONS

In re Application of
Mathias, Rondeau & Joie
Application No. 10/279,252
Filed: October 24, 2002
Attorney Docket No. F-5472 CIP CIP
(0360-0052.04)
For: BIOLOGICAL FLUID SAMPLING APPARATUS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 19, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, Michel Joie, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney Michael C. Mayo and the exhibits to the declaration establish that Mr. Joie received the application papers, including the specification, claims and drawings, but the Mr. Joie failed to respond to the request that he sign the declaration. According to Attorney Micheal C. Mayo, Mr. Joie was repeatedly contacted and has continued to decline to execute the declaration. On February 27, 2003, Mr. Joie told Attorney Mayo that the declaration "still sits not approved yet on my desk." Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: GARY W. McFARRON
COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 W. ADAMS ST., SUITE 2850
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michel Joie
Rue Camille Cals 13
Erange 5030
BELGIUM

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NOV 1 0 2003

OFFICE OF PETITIONS

In re Application of
Mathias, Rondeau & Joie
Application No. 10/279,252
Filed: October 24, 2002
Attorney Docket No. F-5472 CIP CIP
(0360-0052.04)
For: BIOLOGICAL FLUID SAMPLING APPARATUS

LETTER

Dear Mr. Joie:

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: Bradford R. L. Price, Esq.
Baxter Healthcare Corporation
Fenwal Division, RLP-30, Route 120 & Wilson Road
P.O. Box 490
Round Lake IL 60073

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GENERAL INSTRUMENT CORPORATION,
DBA THE CONNECTED HOME SOLUTIONS
BUSINESS OF MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
Christopher J. Stone et al :
Application No. 10/279,259 : DECISION ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. D02868 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 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.

No Notice of Abandonment has been mailed in this application. However, this application became abandoned by operation of law for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on April 20, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

The statement of unintentional delay is not acceptable at this time since the electronic signature on the petition does not comply with 37 CFR 1.4(d)(2)(ii), which states:

> A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature.

The S-signature on the petition did not include petitioner's registration number as required by 37 CFR 1.4(d)(2)(ii). Accordingly, the petition cannot be granted at this time.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b) (no additional fee required).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Motorola, Inc.
Law Department
1303 East Algonquin Road
3rd Floor
Schaumburg IL 60196

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MAY 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Christopher J. Stone et al. :
Application No. 10/279,259 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. D02868 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 29, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit a proper response to the final Office action mailed January 19, 2007 which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on April 20, 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 Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The renewed petition lacks item (3).

The Petition Decision mailed August 29, 2007 notes that the petition filed August 8, 2007 lacked a proper statement of unintentional delay. Specifically the electronic signature was not in compliance with 37 CFR 1.4(d) (2) (ii) in that the registration number was missing.

The renewed petition indicates that the person who made the improper electronic signature, Mr. Bethea, is no longer employed by the attorney of record. The renewed petition requests that the statement of unintentional delay made in the August 8, 2007 petition be accepted. A statement of unintentional delay from August 8 until the filing of the instant petition was made in the renewed petition by Benjamin Driscoll.

The statement of unintentional delay in the August 8, 2007 petition cannot be accepted as noted in the decision mailed August 29, 2007. Therefore Benjamin Driscoll's statement of unintentional delay is not acceptable since it does not cover the entire time period from the due date of the reply until the filing of a grantable petition.

If Benjamin Driscoll made a proper statement of unintentional delay in filing a response covering the time period from when the response was due until the filing of a grantable petition, such statement would be 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 had not been made, petitioner must make such an inquiry.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-6842.

for David Bucci
Petitions Examiner
Office of Petitions

Cc: Benjamin D. Driscoll
Motorola, Inc.
101 Tournament Drive
Horsham, PA 19044

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)
6,679,169	2004-01-20	10/279,271	2002-10-24	03367/0212687-US0

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jay P. Lessler/	Date (YYYY-MM-DD)	2009-08-04
Name	Jay P. Lessler	Registration Number	41151

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. 6679169
Issue Date: January 20,2004
Application No. 10279271
Filed: October 24,2002
Attorney Docket No. 600.1244

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 4,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 4,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Sep-06

DEL CHRISTENSEN
SHELL OIL COMPANY
P.O. BOX 2463
HOUSTON TX 77252-2463

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OFFICE OF PETITIONS

In re Application of :
Vinegar et al. :
Application No. 10/279,294 : DECISION ON PETITION
Filed: 24 October, 2002 :
Atty Docket No. 5659-18100/EBM :

This is a decision on the petition filed on 3 May, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 9 November, 2005, for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 8 August, 2005, which set a three (3)-month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: William K. Bertram	: DECISION ON REQUEST FOR
Patent Number	: 6734843	: RECALCULATION of PATENT
Issue Date	: 05/11/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 10/279,300	: OF WYETH
Filed	: 10/24/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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JUN 22 2009

OFFICE OF PETITIONS

In re Application
Louis B. Rosenberg et al.
Application No. 10/279,302
Filed: October 23, 2002
Attorney Docket No. **IMM144**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the "Petition Regarding Patent Term Ad,iustment (PTA) Indicated in Notice of Allowance" filed June 1, 2009. Applicant requests that the determination of patent term adjustment be corrected from four hundred seventy-four (474) days to five hundred sixty (560) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the

amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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 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 decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 15 ,2009

TO SPE OF : ART UNIT 2629

SUBJECT : Request for certificate of correction for Appln.no. 10/279302

Should

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Column 4, line 1, be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER

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 (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

COPY MAILED

DEC 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,567,232
Issued: July 28, 2009
Application No. 10/279,302
Filed: October 23, 2002
Attorney Docket No. IMM144

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA) DETERMINATION" filed September 28, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 469 days to 555 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On July 28, 2009, the above-identified application matured into US Patent No. 7,567,232 with a patent term adjustment of 469 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the authorization of the $200.00 fee set forth in 37 CFR 1.18(e) and have charged the required fees to deposit account no. 16-1435. 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 555 days, which includes 163 days due to exceeding three year pendency.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (163 days) and the period of Examination Delay (537 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that 77 days of the Three Year Delay period overlaps with the examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 623 days, which includes the period of Three Year Delay (163 days) and the period of

Examination Delay (537 days), reduced by the period of overlap (77 days). As such, patentees assert entitlement to a patent term adjustment of 555 days (163 + 537 reduced by 77 overlap – 68 (applicant delay)).

The Office contends that all 163 days for over three year pendency overlap with the 537 days accorded for Office delay during the pendency of the application, and thus, no additional days were entered for over three year delay. 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, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April

22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

As 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.

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 23, 2002, to the date the first RCE was filed on April 5, 2006. Prior to the issuance of the patent, 537 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 163 days for Office delay in issuing the patent overlap with the 537 days of Office delay. During that time, the issuance of the patent was delayed by 537 days, not 537 + 163 days. The Office experienced 537 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 163 days of Office delay and the time allowed within the time frames for processing and examination, the application was pending three years and 163 days. The Office did not delay 537 days and then an additional 163 days. Accordingly, 537 days of patent term adjustment (not 537 and 163 days) was properly entered. The period of delay of 163 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 537 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 537 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 163

days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,567,232
Issued: July 28, 2009
Application No. 10/279,302
Filed: October 23, 2002
Attorney Docket No. IMM144

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA) DETERMINATION filed on January 22, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 469 days to 555 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

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 five hundred fifty-four (554) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 23, 2005 and ends on April 4, 2006, the day before the RCE was filed, and the B delay considering the 78 days of overlap is 163 (not 164) days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 85 days. As such, the patent term adjustment is 554, not 555 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred fifty-four (554)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 17:00:31

PTA Calculations for Application: 10/279302			
Application Filing Date:	10/23/2002	PTO Delay (PTO):	537
Issue Date of Patent:	07/28/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	68
Post-Issue Petitions:	0	Total PTA (days):	554
PTO Delay Adjustment:	85		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
114	03/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	85		
106.5	07/08/2009	PTA 36 MONTHS			
106	07/28/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
105	06/26/2009	EXPORT TO FINAL DATA CAPTURE			
104	06/25/2009	DISPATCH TO FDC			
103	06/22/2009	MAIL-PETITION DECISION - DISMISSED			
102	06/22/2009	PETITION DECISION - DISMISSED			
101	06/01/2009	PETITION ENTERED			
100	06/02/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
99	06/01/2009	RESPONSE TO REASONS FOR ALLOWANCE			
98	06/01/2009	ISSUE FEE PAYMENT VERIFIED			
97	06/01/2009	ISSUE FEE PAYMENT RECEIVED			
96	04/27/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
95	04/23/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
94	04/23/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		5	96
93	04/07/2009	FINISHED INITIAL DATA CAPTURE			
92	03/27/2009	MAIL NOTICE OF DRAWING INCONSISTENCY WITH SPECIFICATION			
91	03/27/2009	PUB NOTICE OF DRAWING INCONSISTENCY WITH SPECIFICATION			
90	03/12/2009	RECEIPT INTO PUBS			
89	03/12/2009	RECEIPT INTO PUBS			
88	03/06/2009	EXPORT TO INITIAL DATA CAPTURE			
87	03/02/2009	MAIL NOTICE OF ALLOWANCE			

86	02/28/2009	ISSUE REVISION COMPLETED			
85	02/28/2009	DOCUMENT VERIFICATION			
84	02/28/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
83	02/27/2009	NOTICE OF ALLOWABILITY			
80	12/19/2008	DATE FORWARDED TO EXAMINER			
79	12/04/2008	RESPONSE AFTER NON-FINAL ACTION			
78	09/03/2008	MISCELLANEOUS INCOMING LETTER			
77	09/05/2008	MAIL NON-FINAL REJECTION			
76	09/02/2008	NON-FINAL REJECTION			
75	06/18/2008	DATE FORWARDED TO EXAMINER			
74	06/12/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
73	06/18/2008	DATE FORWARDED TO EXAMINER			
72	06/12/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		16	64
71	06/18/2008	DISPOSAL FOR A RCE / CPA / R129			
70	06/12/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
69	06/12/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	05/30/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
67	05/28/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
64	02/27/2008	MAIL FINAL REJECTION (PTOL - 326)			
63	02/26/2008	FINAL REJECTION			
62	10/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	12/12/2007	NEW OR ADDITIONAL DRAWING FILED			
60	12/21/2007	DATE FORWARDED TO EXAMINER			
59	12/12/2007	RESPONSE AFTER NON-FINAL ACTION			
58	10/25/2007	REFERENCE CAPTURE ON IDS			
57	10/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	10/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	09/13/2007	MAIL NON-FINAL REJECTION			
54	09/07/2007	NON-FINAL REJECTION			
53	07/02/2007	DATE FORWARDED TO EXAMINER			
52	06/29/2007	RESPONSE TO ELECTION / RESTRICTION FILED			

51	05/17/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
50	05/31/2007	MAIL RESTRICTION REQUIREMENT			
49	05/25/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
48	05/17/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	05/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	05/01/2007	PRELIMINARY AMENDMENT			
45	05/11/2007	DATE FORWARDED TO EXAMINER			
44	05/01/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	05/11/2007	DATE FORWARDED TO EXAMINER			
42	05/01/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		15	39
41	05/11/2007	DISPOSAL FOR A RCE / CPA / R129			
40	05/08/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	01/16/2007	MAIL FINAL REJECTION (PTOL - 326)			
38	01/12/2007	FINAL REJECTION			
37	11/18/2006	DATE FORWARDED TO EXAMINER			
36	10/23/2006	RESPONSE AFTER NON-FINAL ACTION		32	34
35	10/23/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	06/21/2006	MAIL NON-FINAL REJECTION			
33	06/18/2006	NON-FINAL REJECTION			
32	04/05/2006	NEW OR ADDITIONAL DRAWING FILED			
31	04/11/2006	DATE FORWARDED TO EXAMINER			
30	04/05/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
29	04/11/2006	DATE FORWARDED TO EXAMINER			
28	04/05/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
27	04/11/2006	DISPOSAL FOR A RCE / CPA / R129			
26	04/05/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
25	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	01/09/2006	MAIL FINAL REJECTION (PTOL - 326)	254		17
23	01/05/2006	FINAL REJECTION			
22	10/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	10/13/2005	CASE DOCKETED TO EXAMINER IN GAU			

20	09/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	08/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	03/29/2005	DATE FORWARDED TO EXAMINER			
17	12/30/2004	RESPONSE AFTER NON-FINAL ACTION			
16	12/30/2004	WORKFLOW INCOMING AMENDMENT IFW			
15	10/01/2004	MAIL NON-FINAL REJECTION	283		-1
14	09/29/2004	NON-FINAL REJECTION			
13	09/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	05/14/2003	REFERENCE CAPTURE ON IDS			
11.7	05/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	05/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	07/21/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9.7	06/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	06/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	05/06/2004	MISCELLANEOUS INCOMING LETTER			
7	05/06/2004	MISCELLANEOUS INCOMING LETTER			
5	12/13/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	11/25/2002	APPLICATION DISPATCHED FROM OIPE			
3	11/22/2002	APPLICATION IS NOW COMPLETE			
2	10/31/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/23/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,567,232 B2

DATED : July 28, 2009

INVENTOR(S) : Rosenberg

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 (469) days

Delete the phrase "by 469 days" and insert – by 554 days--

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ERIE PA 16531

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Smith, Eugene A. :
Application No. 10/279,338 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. 121330/10081-008 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 9, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal and payment of the issue fee; (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 address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

Cc: BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO, FL 32801

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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JUN 28 2004

In re Application of :
Gunther Schulz *et al* : DECISION ON PETITION
Application No. 10/279,339 :
Filed: October 24, 2002 :
Attorney Docket No. 10890-004

This is a decision on the petition filed on March 24, 2004 by which petitioners request the acceptance of an amendment after final rejection that was filed on November 24, 2003 in response to the final rejection dated September 24, 2003, and that no extension of time fees are required for the amendment or for the Request for Continued Examination (RCE) filed concurrently with the petition. This petition is being considered under 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

It appears from the evidence attached to the petition that a reply to the final rejection dated September 24, 2003 was in fact filed by petitioners November 24, 2003; that is, the reply was in fact received in the Office. While there is no evidence that the reply filed on November 24, 2003 in fact complied with 37 CFR 1.113 and 37 CFR 1.116 so as to constitute a "proper" reply in accordance with these regulations, it is noted that pursuant to MPEP § 706.07(f), the filing of a reply within two months of the final rejection would extend the period for response so that it would expire at three months from the date of the final rejection or on the date an advisory action is mailed, whichever is later. No advisory action was ever mailed. Therefore the period for filing a "proper" reply to the final rejection was extended to run for the full six month statutory period established by 35 USC § 133, and therefore ran through March 24, 2004.

The record shows that on March 24, 2004, petitioners filed an RCE. An RCE is a "proper" reply to a final rejection. As the RCE was filed within six months of the date of the final rejection dated September 24, 2003, it was clearly timely filed without the necessity for any extension of time and the fees for an extension of time.

This application will be forwarded to the Head Supervisory Applications Examiner with instructions to process the RCE filed on March 24, 2004 as a timely paper, and to enter the amendment filed on November 24, 2003 in accordance with the instructions in the RCE. The application will then be sent to the examiner for appropriate action on the RCE.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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Chiron Corporation
4560 Horton Street
Emeryville CA 94608

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MAR 0 3 2004

OFFICE OF PETITIONS

Applicant: Scharschmidt et al.
Appl. No.: 10/279,343
Filing Date: October 24, 2002
Title: COMPOSITIONS AND METHODS OF THERAPY FOR IGF-I-RESPONSIVE CONDITIONS
Attorney Docket No.: 035784/255275
Pub. No.: US 2003/0100505 A1
Pub. Date: May 29, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on July 21, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a mistake in dependent claim 13 wherein "for administering said IGF-I or variant thereof at a dose of about 5μg/kg to about 30μg/kg" is misprinted as "for administering said IGF-I or variant thereof at a dose of about 5ag/kg to about 30μg/kg".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The typographical error in dependent claim 13 in the patent application publication wherein "5μg/kg " is misprinted as "5ag/kg " is an Office error, but it is a minor typographical error, which is clearly understandable. The mistake is clearly understandable as the term is used in stating a range "5μg/kg to about 30μg/kg", which further limits the range set out in dependent claim 12 "15μg/ml to about 2,000μg/ml" and "ag" is not a unit for this measurement. The mistake is a minor typographical error which is understandable from reading the specification, and claim in which the term is used, as terms are not read in a vacuum. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published"

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-305-8568

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

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SUITE 920
ATLANTA, GA 30342

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OFFICE OF PETITIONS

In re Application of :
Jordan et al. :
Application No. 10/279,346 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. C01-0051 :

This decision concerns the January 24, 2002 petition under 37 CFR 1.47(a) for the above-referenced application.

The petition is **DISMISSED as moot.**

This petition, filed with the application on October 24, 2002, asserts that 1 of the 2 joint-inventors refused to sign the application declaration, and requests that the available inventor be allowed to file the application on behalf of himself as well as the non-signing inventor.

On May 8, 2003, a "Declaration and Power of Attorney" executed by both inventors ("5/8/03 Declaration") was filed, rendering the §1.47(a) petition subject to dismissal as moot.

No fee is owed.

The application file is being returned to the Office of Initial Patent Examination for processing of the 5/8/03 Declaration. Upon completion of pre-examination, the file will be forwarded to the appropriate Technology Center for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PARKS KNOWLTON - C001
1117 PERIMETER CENTER WEST
SUITE E402
ATLANTA GA 30338

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Royce D. Jordan et al	:	
Application No. 10/279,346	:	DECISION GRANTING PETITION
Filed: October 24, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. C01-0051-000	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 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/previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed November 29, 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 2132 to consider the reply received September 21, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of:
Gregory Bollella, Scott D. Robbins,
David S. Hardin,
Benjamin M. Brosgol, Peter Dibble
and Pratik Solanki
Application No. 10/279,348
Filed: October 23, 2002
Title of Invention: METHOD AND APPARATUS FOR SCOPED MEMORY

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Petition filed January 27, 2003, 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.

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, Benjamin M. Brosgol, 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 forwarded to Technology Center Art Unit 2186 for examination in due course.

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
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of:
James J. Carrig, et al.
Application No. 10/279,354
Filed: October 23, 2002
For: **METHOD AND APPARATUS FOR ADAPTIVE PIXEL ESTIMATION UNDER HIGH ERROR RATE CONDITIONS**

DECISION
ACCEPTING PAPERS

This is in response to the petition filed on July 23, 2004, requesting that the papers submitted to the Office on May 25, 2004, be accepted as having been timely filed in the subject application in response to an outstanding Office action mailed February 25, 2004.

Petitioner states that it was recognized after the papers were submitted, that the application number had been mistyped on the cover page, the response, the transmittal and the postcard. However, the correct application number was listed in the footers of the response and that the title, inventorship, filing date, attorney docket number, examiner name and art unit were all correct.

Contrary to Petitioner's statement above, the filing date typed on the cover page, response and transmittal is also inaccurate.

Applicants' submission has been located and associated with the subject application. Applicants are reminded of the importance of appropriately identifying the application which the correspondence is directed, in order to avoid delay in consideration.

37 CFR §1.5. Identification of patent, patent application, or patent-related proceeding, states in part:

(a) ... When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07 /123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application.

MPEP §502 [R-2] Depositing Correspondence, goes on to state:...

The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions.

Frequently, there are errors in the application number or in the art unit number, or the incoming paper uses the old art unit number where an application has been transferred and acted on by a different art unit. Where the art unit number is entirely omitted, the routine operations of OIPE must be interrupted solely for the purpose of determining the location of the application so that the communication can be properly routed. Under these circumstances, the efficiency of OIPE is impaired and the incoming paper is delayed in reaching its proper destination. Where such papers are not essential to compliance with a statutory period or time limit for reply, they may be returned for completion to identify the location of the files.

It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

(A) Application number (checked for accuracy, including series code and serial no.).
(B) Art Unit number (copied from most recent Office communication).
(C) Filing date.
(D) Name of the examiner who prepared the most recent Office action.
(E) Title of invention.
(F) Confirmation number (see MPEP § 503).

The correspondence contains a date-stamped as having been received in the Office on May 28, 2004. However, the correspondence transmittal, which itemizes the amendment/response, fee transmittal and post-card return receipt, contains a certificate of mailing dated May 25, 2004.

Accordingly the correspondence received on May 28, 2004 is accepted as timely.

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, D.C. 20231
www.uspto.gov

Paper No. 7

Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210-2414

COPY MAILED

MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of	:	
Norman W. Finn	:	
Application No. 10/279,360	:	DECISION GRANTING
Filed: October 24, 2002	:	PETITION
Attorney Docket No. 112025-0490	:	

This is a decision on the petition filed January 23, 2003, requesting that the above-identified application be accorded a filing date of October 24, 2002, rather than the presently accorded date of October 23, 2002. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the later filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on October 24, 2002, pursuant to 37 CFR 1.10. In support, the petition is accompanied by a copy of Express Mail receipt No. EL768632954US, showing a handwritten "date-in" of October 13, 2002 as well as a "BOSTON MA FORT POINT STA USPS" receipt stamp of October 24, 2002. Additionally, petitioner has provided a copy of the "Express Mail Corporate Account Mailing Statement" which shows the date the Express Mail package in question was mailed. The same Express Mail receipt number was referred to in the original application papers found in the file.

A review of the USPS Express Mail Track/Confirm system confirms that the Express Mail package in question was accepted October 24, 2002 at 5:48 pm. Accordingly, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 24, 2002.

In view of the above, the petition for a corrected filing date is **GRANTED**.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of October 24, 2002.** Thereafter, the application file will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090403

DATE : April 14, 2009

TO SPE OF : ART UNIT 2416

SUBJECT : Request for Certificate of Correction on Patent No.: 6975650

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: FERRIS DERRICK **Art Unit** 2416

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 15 2006

In re Patent No. ROCHA-ALVAREZ ET AL.
Issue Date: September 28, 2004
Appl No.: 10/279,367
Filed: October 23, 2002
For: **PLASMA ENHANCED CVD LOW K CARBON-DOPED SILICON OXIDE FILM DEPOSITION USING VHF-RF POWER**

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petitions filed on May 03, 2005, and November 13, 2005, to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Michael Lebentritt
Supervisory Patent Examiner
Art Unit 2812
Technology Center 2800

PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056

UNITED STATES 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: May 15, 2006
TO: Certificates of Correction Branch
FROM: Michael Lebentritt
SPE, Art Unit 2812
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,797,643, as specified on the attached Certificate.

Michael Lebentritt, SPE
Art Unit 2812

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,797,643
Patented: September 28, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Juan Carlos Rocha-Alvarez, Sunnyvale, CA (US) ;
Maosheng Zhao, Santa Clara, CA (US);
Ying Yu, Cupertino, CA (US);
Shankar Venkataraman, Santa Clara, CA (US);
Srinivas D. Nemani, Sunnyvale, CA (US);
Li-Qun Xia, Santa Clara, CA(US) ;
Vinta Singh, Mountain View, CA (US);
Yi Zheng, Santa Clara, CA (US)

Michael Lebentritt
Supervisory Patent Examiner
Art Unit 2812

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 7

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DEC 15 2003

Technology Center 2100

SQUIRE, SANDERS & DEMPSEY L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043

In re Application of
Daniel J. MENDEZ
Application No. 10/279,369
Filed: October 23, 2002
For: SYSTEM AND METHOD FOR MERGING REMOTE AND LOCAL DATA IN A SINGLE USER INTERFACE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 4, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communication from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: MANATT, PHELPS & PHILLIPS LLP
1001 Page Mill Road
Building 2
Palo Alto, CA 94304

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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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MANATT PHELPS AND PHILLIPS LLP
1001 PAGE MILL ROAD
BUILDING 2
PALO ALTO, CA 94304

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APR 26 2007

OFFICE OF PETITIONS

In re Application of :
MENDEZ, Daniel J. :
Application No. 10/279,369 : DECISION ON PETITION
Filed: October 23, 2002 : TO WITHDRAW
Attorney Docket No. **25587-033-073** : 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 12, 2007**.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Manatt Phelps and Phillips has been revoked by the assignee of the patent application on February 28, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4321.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **SCOTT MCKEOWN**
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314-3412

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
10/279,369	10/23/2002	Daniel J. Mendez	43630.00073

CONFIRMATION NO. 1675

22850
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

OC000000023469414

Date Mailed: 04/19/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/28/2007.

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.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/279,369	10/23/2002	Daniel J. Mendez	43630.00073

CONFIRMATION NO. 1675

OC000000023469404

36614
MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

Date Mailed: 04/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/28/2007.

- 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).

Michelle R. Eason

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6775863
Issue Date: August 17,2004
Application No. 10279380
Filed: October 23,2002
Attorney Docket No. 8306.2010US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 22,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 22,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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JUN 0 4 2003

Technology Center 2600

Paper No. 3

CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91109-7068

In re Application of:
Yurt et al.
Application No. 10/279,384
Filed: October 23, 2002
For: AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 23, 2002 under 37 CFR § 1.102(d) to make the application special.

A grantable petition under 37 CFR § 1.102(d) and MPEP § 708.02, section II: Infringement, 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 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 a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all of the above 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 is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

COPY MAILED

MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Muthiah, et al.
Application No.: 10/279,392
Filed: October 24, 2002
Attorney Docket No.: 3477-05-99-5
For: ONE-COMPONENT, LOW TEMPERATURE CURABLE COATING POWDER

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 24, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

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 (1) 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 inventor 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). The petition does not establish that a complete copy of the application was mailed to Mr. Muthiah.

Mr. Muthiah must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioners can show that Mr. Muthiah was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable period of time, petitioners will have satisfied this requirement.

Mr. Muthiah cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. Mr. Muthiah's signature on the

Declaration would obligate him, under penalty of fine or imprisonment, or both to particulars to which Mr. Muthiah can only attest after having had the opportunity to review the subject patent application.

Petitioners must send Mr. Muthiah a copy of the as filed above-identified application and request that the sign the declaration.

Pursuant to petitioners' authorization, deposit account no. 18-1850 will be charged the $130.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
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
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Muthiah, et al.
Application No.: 10/279,392
Filed: October 24, 2002
Attorney Docket No.: 3477-05-99-5
For: ONE-COMPONENT, LOW TEMPERATURE CURABLE COATING POWDER

:DECISION NOTING JOINDER OF
:INVENTOR AND PETITION UNDER
:37 CFR 1.47(a) MOOT

Papers filed on May 6, 2003 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on March 28, 2003, included a Declaration signed by the previously nonsigning inventor, Jeno Muthiah, 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 will be forwarded to the Office of Initial Patent Examination for further processing.

Inquiries related to this decision may be addressed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/21/2008

TO SPE OF : ART UNIT 2100 (2117)

SUBJECT : Request for Certificate of Correction on Patent No.:7,287,206

Attn: Cynthia Britt

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 changes to claims 7,15,16,17 and 18 as req. in COCIN? eDan.**

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.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

__ **ok to enter changes to claims 7,15,16,17 and 18 as req. in COCIN**

/Cynthia Britt/

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 4/19/05

dss
Paper Number

In re application of :
Jeffery J. Vrotsos : DECISION ON
Serial No.10/279,425 : PETITION
Filed: October 24, 2002 :
For: FLUE GAS DESULFURIZATION SYSTEM
WITH A STEPPED TRAY:

This is a response to the PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT filed January 10,2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 13, 2004 for failure to timely pay the Issue and Publication Fee in response to the Notice of Allowance mailed May 10, 2004, be withdrawn since the applicants did timely file a response thereto on by facsimile transmission to the USPTO on June 10, 2004. (A copy of the papers filed June 10,2004 and a copy of the fascimile transmittal confirmation sheet indicating receipt of the facsimile transmission at the USPTO is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on June 10,2004 by facsimile transmission as evidenced by the facsimile confirmation sheet attached to applicant's response. Therefore, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Notice of Allowance mailed on May10, 2004is hereby vacated, and the application is returned to pending status.

The application shall be forwarded for processing of the Issue Fee and Publication Fee originally filed June 10, 2004.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

The Babcock & Wilcox Company
Patent Department
P.O. Box351
20 South Van Buren Avenue
Barberton, OH 44203

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

CINGULAR WIRELESS
ATTN: LINDA GILES
5565 GLENRIDGE CONNECTOR, SUITE 920
ATLANTA, GA 30342

COPY MAILED

MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Royce D. Jordan and Brett T. Williams :
Application No. 10/279,429 : DECISION REFUSING STATUS
Filed: October 24, 2002 : UNDER 37 CFR 1.47(a)
For: PASSWORD SYNCHRONIZATION :
FOR WIRELESS ENCRYPTION SYSTEM

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 24, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on October 24, 2002 without an executed oath or declaration and naming Royce D. Jordan and Brett T. Williams as joint inventors. The instant petition was filed with the application on October 24, 2002.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) and (2), as set forth above.

As to item (1), applicant appears to demonstrate that Mr. Williams was only presented with the declaration. Unless Mr. Williams was presented with a copy of the application papers (specification, claims and drawings), Mr. Williams could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration submitted on October 24, 2002 only contains the signature block for inventor Royce D. Jordan. The declaration must contain the signature blocks for both of the joint inventors. As such, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by Mr. Jordan on behalf of himself and Mr. Williams is REQUIRED. See MPEP 409.03(a).

Deposit account No. 50-2450 has been charged the fee for the petition under 37 CFR 1.47 ($130.00).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

CINGULAR WIRELESS
ATTN: LINDA GILES
5565 GLENRIDGE CONNECTOR, SUITE 920
ATLANTA, GA 30342

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OFFICE OF PETITIONS

In re Application of
Royce D. Jordan and Brett T. Williams
Application No. 10/279,429
Filed: October 24, 2002
For: PASSWORD SYNCHRONIZATION FOR WIRELESS ENCRYPTION SYSTEM

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION
: UNDER 37 CFR 1.47(a) MOOT

This is in response to the request for reconsideration of "Petition Under 37 CFR 1.47(a)," filed May 8, 2003.

Petitioner has submitted a Declaration executed by the previously non-signing inventor BRETT WILLIAMS in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a)

The file is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 5/13/05

meb
Paper Number: _____

In re application of
David S. Uerz, et al

Serial No. 10/279,439
Filed: October 24, 2002
For: Overcoat Composition For Image Recording Materials

DECISION ON
PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed January 25, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 11, 2005 for failure to timely respond to the Office Action mailed June 25, 2004, be withdrawn. The petitioner asserts that the Office Action mailed June 25, 2004 was 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)(I).

The evidence presented is sufficient to establish that the Office Action was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Office Action was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office Action mailed June 25, 2004 was not received. Also provided is a copy of the automated docketing record and cover of the docket file, where the Office Action 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 Office Action to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PAUL A. LEIPOLD, PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

UNITED STATES 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.

NEIL D. GERSHON
REX MEDICAL
1011 HIGH RIDGE ROAD
STANFORD CT 06905

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of :
McGuckin et al. :
Application No. 10/279,468 :
Patent No.: 7,077,829 : DECISION ON PETITION
Filed: October 24, 2002 : PURSUANT TO
Issued: July 18, 2006 : 37 C.F.R. § 1.28(c)
Attorney Docket No.: 1124 :
Title: DIALYSIS CATHETER :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on February 25, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

The deficiency payment of $490 is acknowledged.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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.

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 patent, 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 patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Kendal M. Sheets
CPA Global
225 Reinekers Lane, Suite 400
Alexandria, VA 22314

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 that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paul D. Greeley, Esq.
Ohlandt, Greeley,
Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stanford, CT 06901-2682

NOV 24 2004

In re Application of: Mamoru Tamba,
Tokyo, JAPAN
Application No. 10/279,493
Filed: 10/24/2002
Attorney Docket No. 40010812-02(US)

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR ə 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 March 10, 2004, are hereby vacated.

The application is being withdrawn from issue 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 Michael J. Tokar, Supervisory Patent Examiner, at (571) 272-1812.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
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Paper No. 6

Therox, Inc.
2400 Michelson Drive
Irvine, CA 92612

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SEP 16 2003

OFFICE OF PETITIONS

In re Application of :
Daw J. Derek et al. :
Application No. 10/279,507 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. PA088-US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 8, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Corrected Application Papers (Notice) mailed December 11, 2002, which set a shortened statutory period for reply of (2) Two Months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 12, 2003.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE: L. Picard

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/20/06

TO SPE OF : ART UNIT 2125

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/279,532 Patent No.: 7092866

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: _____

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

L. P. Picard — SPE

2125 — Art Unit

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Alexandria, VA 22313-1450
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Paper No. 6

Steven J. Goldstein
Frost Brown Todd LLC
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202

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JUN 16 2003

OFFICE OF PETITIONS

In re Application of :
Liao, et al. :
Application No. 10/279,555 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No.: 40757/0502348 :

This is a decision on the petition, filed January 17, 2003 and supplemented February 12, 2003, requesting that the above-identified application be accorded a filing date of October 24, 2002 without drawings as part of the original disclosure.

The above-referenced application was deposited October 24, 2002. A Notice of Incomplete Nonprovisional Application ("Notice") was mailed December 18, 2002. The Notice indicated the application had not been accorded a filing date because the application was deposited without drawings in accordance with 35 USC 113. The Notice indicated the filing date would be the date of receipt of the required drawings. Any assertion that the drawings were in fact submitted or are unnecessary for a filing date must be by way of petition.

Petitioner argues that drawings are not necessary for an understanding of the subject matter sought to be patented and requests that the application be accorded a filing date of October 24, 2002.

The question of whether drawings are necessary under the first sentence of 35 U.S.C. 113 has been presented to the Supervisory Patent Examiner ("SPE") for Group Art Unit 1714, the Group Art Unit responsible for examining the subject matter claimed in this application. The SPE has stated that drawings are not required for an understanding of the invention disclosed in the instant application.

Petitioner is advised that Figure 1 submitted on supplemental petition February 12, 2003 **will not** be entered into the record and **is not** part of the disclosure of this application. The figure will, however, be retained in the official application file.

In view of the above, the petition to accord the application the October 24, 2002 filing date is **GRANTED**.

No fee is due in connection with this matter. The petition fee previously submitted has been refunded to petitioner's deposit account.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of October 24, 2002 and an indication in Office records that zero (0) sheets of drawings were present on filing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Alesia M. Brown
Petitions Attorney
Office of Petitions

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WOODCOCK WASHBURN
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

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MAY 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Rick A. Allen et al	:	
Application No. 10/279,563	:	DECISION ON PETITION
Filed: October 24, 2002	:	TO WITHDRAW
Attorney Docket No. BELL-0209/02167	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. 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.

This application is being referred to Technology Center AU 2163.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: WITHERS & KEYS FOR BELL SOUTH
P.O. BOX 71355
MARIETTA, GA 30007-1355

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FEB 09 2005

Akin Gump Strauss Hauer & Feld L.L.P.
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103-7013

In re Application of	:	DECISION ON PETITION
Jerry L. Malis et al	:	TO WITHDRAW
Serial No. : 10/279,572	:	HOLDING OF
Filed : October 24, 2002	:	ABANDONMENT
For : Electrosurgical Generator Apparatus	:	

This is a decision on petitioner's request filed December 13, 2004, which request is being treated as a request to review a holding of abandonment for failure to respond to the Office action mailed May 21, 2004. No Notice of Abandonment has been mailed in the instant application. There is no fee required for this petition.

In support of the request, petitioner has provided a statement that on July 26, 2004, a response to the Office action mailed May 21, 2004 along with a two-month extension of time request were filed in accordance with the procedures set forth in 37 CFR 1.8. The communications included a Certificate of First Class Mailing dated July 26, 2004. A copy of the July 26, 2004 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 mailed July 26, 2004.

Summary: Holding of Abandonment Withdrawn.

Esther M. Kepplinger, Director
Technology Center 3700
Phone: (571) 272-2975

ak/02/07/05

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Stephen A. Bent
Foley & Lardner
Washington Harbour
3000 K Street N. W.
Washington DC 20007-5143

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JAN 23 2007

OFFICE OF PETITIONS

In re Patent No. 6,875,445 :
Issue Date: April 5, 2005 :
Application No. 10/279,598 : NOTICE
Filed: October 24, 2002 :
Attorney Docket No.: 104147-0009C1 :

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
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 10

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY
ADMINISTRATION
PO BOX 272400
FORT COLLINS, CO 80527-2400

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MAR 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Tsao et el. :
Application No. 10/279,605 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 10991162-5 :

This decision concerns the March 12, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on September 7, 2003 for failure to timely respond to the June 6, 2003 non-final Office Action.

The instant petition encloses an amendment and the $1,330 petition fee, and states in effect that the entire delay in responding to the June 6, 2003 non-final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application file is being returned to Technology Center 1700 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6857478	2005-02-22	10279615	2003-01-29	

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	/douglas e. warren/	Date (YYYY-MM-DD)	2009-10-13
Name	Douglas E. Warren	Registration Number	52344

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. 6857478
Issue Date: February 22,2005
Application No. 10279615
Filed: January 29,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 13,2009 ,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 October 13,2009 . 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
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DEC 28 2004

JEFFREY RACHO, ESQ.
HARVEY & MORTENSEN
STE. T-2
800 LANCASTER AVENUE
BERWYN PA 19312

In re Application of	:	
Harold Milstein	:	
Serial No.: 10/279,636	:	SUSPENSION OF ACTION
Filed: October 24, 2002	:	
Attorney Docket No.:	:	

This is in reply to the renewed petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed November 22, 2004.

A review of the file history shows that this is an unexamined application. Applicant requests that action on this application be suspended for six months pending securing of a new attorney.

§ 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.

The securing of new counsel for the purpose of prosecuting this (or any) application which has not yet been reached by the examiner for examination is not considered a good or sufficient reason to suspend prosecution. The Office maintains a listing of over 20,000 registered patent practitioners from which applicant may choose. Many are skilled in prosecution of applications having subject matter similar to the instant application and have the requisite knowledge and expertise applicant alleges is required. Securing of counsel to prosecute an application is also not a matter which affects the determination of patentability. Thus the reason given for requesting suspension is not considered to be either good or sufficient.

In view of the above reason the petition is **DENIED**.

The application will be taken up for examination in turn by the examiner assigned.

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general 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
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 2 2004

Paper No. 062904

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

In re Application of:
Adrian J. Martinez
Serial No.: 10/279,644
Filed: October 24, 2002
Attorney Docket No.: **100111063-1**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

This is a decision on the petition under 37 CFR § 1.313, filed June 21, 2004, to withdraw the above identified application from issue.

The petition is **dismissed** as being unnecessary.

This petition was filed on June 21, 2004, along with a Request for Continued Examination (RCE), an Information Disclosure Statement (IDS), and the fee for filing an RCE, prior to payment of the issue fee. Pursuant to M.P.E.P. § 1308, applicants wishing to have an application withdrawn from issue, must petition the Commissioner under 37 CFR 1.313(a), **or file a RCE under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e)**, prior to payment of the issue fee. In the instant application the filing of the proper RCE was all that was required to withdraw the application from issue.

Consequently, the petition under 37 CFR § 1.313, filed July 24, 2001, is unnecessary.

The above-identified application is being forwarded to the Technical Support staff for Technology Center 2800 for processing the RCE.

If the issue fee has been paid, it 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.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

Pandiscio & Pandiscio
470 Totten Pond Road
Waltham MA 02451-1914

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OCT 0 8 2003

OFFICE OF PETITIONS

In re Application of
Gozani & Keller
Application No.: 10/279,662
Filed: October 24, 2002
Attorney Docket No.: NEURO-NRO-009
For: DEVICES AND METHODS FOR THE NON-INVASIVE DETECTION OF SPONTANEOUS MYOELECTRICAL ACTIVITY

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed June 18, 2003 (certificate of mailing date June 16, 2003).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 24, 2002 without an executed oath or declaration. Accordingly, on December 16, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a surcharge for its late filing, and an abstract.

In response, on June 18, 2003 (certificate of mailing date June 16, 2003), a petition for a three month extension of time and required fee, a declaration executed by 1 of 2 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A paper entitled, "ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR SIGNATURE BY JOINT INVENTOR(S) ON BEHALF OF NONSIGNING INVENTOR(S) WHO REFUSE(S) TO SIGN OR CANNOT BE REACHED (37 CFR 1.47(a))", accompanies the petition. This paper contains a statement of facts by the signing inventor, Shai N. Gozani. Mr. Gozani sets forth the last known address of nonsigning joint inventor Keller and states that Mr. Keller has moved to the west coast of the United States and is currently out of the country. Mr Gozani states that he is continuing to search for the exact location of Mr. Keller.

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 (1) above.

As to item (1), Applicant has failed to establish that the inventor cannot be located. A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located. Mr. Gozani states that Mr. Keller has moved to the west coast of the United States and is currently out of the country. As stated in MPEP 409.03(d), " The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47(a)."

Petitioners must engage in further efforts to located Mr. Keller. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

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 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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Paper No. 10

Pandiscio & Pandiscio
470 Totten Pond Road
Waltham MA 02451-1914

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OFFICE OF PETITIONS

In re Application of
Gozani & Keller
Application No.: 10/279,662
Filed: October 24, 2002
Attorney Docket No.: NEURO-NRO-009
For: DEVICES AND METHODS FOR THE NON-INVASIVE DETECTION OF SPONTANEOUS MYOELECTRICAL ACTIVITY

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) DISMISSED AS MOOT

Papers filed on January 12, 2004 (certificate of mailing date January 8, 2004) in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on October 8, 2003, included a declaration signed by the previously non-signing inventor, Steven P. Keller, 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 will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91105

MAILED

FEB 1 3 2003

Technology Center 2600

In re Application of:
Paul Yurt et al
Application No. 10/279,664
Filed: October 23, 2002
For: **AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed October 23, 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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Paper No. 7

FLIESLER DUBB MEYER & LOVEJOY, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

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MAY 16 2003

OFFICE OF PETITIONS

In re Application of :
Qian, Lor and Fletcher :
Application No. 10/279,696 :
Filed: October 24, 2002 : DECISION REFUSING STATUS
Attorney Docket No. BEAS-01160US0 : UNDER 37 CFR 1.47(a)
SRM/DJB :
Title: SYSTEM AND METHOD FOR PORTAL: RENDERING :

This is in response to the petition under 37 CFR 1.47(a), filed April 3, 2003.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should 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 24, 2002, without an executed oath or declaration. Accordingly, on November 26, 2002, applicant was mailed a Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted, requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the present petition and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time.

Accompanying the petition was a declaration executed by joint inventors Robert Lor and Adrian Fletcher, but with the signature block for joint inventor Shelly Qian left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the

application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (2).

Applicant has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration is not acceptable because the alteration to the residence and citizenship of Adrian Fletcher is not **initialed and dated.**[1] The Manual of Patent Examining Procedure states that it is "improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." Furthermore, 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."[2]

On renewed petition, applicant must submit a declaration in compliance with 37 CFR 1.63 and 1.64.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

---

[1] "Any interlineation, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

[2] MPEP 605.04(a).

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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. 11

FLIESLER DUBB MEYER & LOVEJOY, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

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OCT 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Qian, Lor and Fletcher :
Application No. 10/279,696 :
Filed: October 24, 2002 : DECISION GRANTING STATUS
Attorney Docket No. BEAS-01160US0 : UNDER 37 CFR 1.47(a)
SRM/DJB :
Title: SYSTEM AND METHOD FOR PORTAL: :
RENDERING :

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 11, 2003. Petitioner obtained a two-month extension of time. Therefore, the petition is timely filed.

The petition under 37 CFR 1.47(a) is **granted**.

Petitioner has shown that after diligent efforts, petitioner was unable to locate Shelly Qian, the non-signing inventor to obtain her signature on the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2100.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Shelly Qian
10340 Leola Court
Cupertino CA 95014

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OCT 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Qian, Lor and Fletcher :
Application No. 10/279,696 :
Filed: October 24, 2002 : LETTER
Attorney Docket No. BEAS-01160US0 :
SRM/DJB :
Title: SYSTEM AND METHOD FOR PORTAL :
RENDERING :

Dear Ms. Qian:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

FLIESLER DUBB MEYER & LOVEJOY, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

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United States Patent and Trademark Office
P.O. Box 1450
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LISA A HAILE
GRAY CARY WARE & FREIDENRICH
4365 EXECUTIVE DR
SAN DIEGO CA 92121-2133

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of :
Battaglia, et al. :
Application No. 10/279,704 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. ALBA.001.02US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 25, 2004. This Office action set a shortened statutory period for reply of one month. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 26, 2004. A Notice of Abandonment was mailed on May 20, 2005.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of a response to restriction requirement, and made the proper statement of unintentional delay.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1080.00 extension of time fee submitted with the petition on November 7, 2005 was subsequent to the maximum period obtainable for reply (February 25, 2005), this fee has been refunded to petitioner's Deposit Account No. 07-1896.

The matter is being forwarded to Group Art Unit 1617 for consideration of the response to restriction requirement, filed November 7, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

Oppenheimer Wolff & Donnelly, LLP
233 Wilshire Boulevard
Suite 700
Santa Monica, CA 90401

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of
Tataryan et al.
Application No. 10/279,705
Filed: October 23, 2003
Attorney Docket No. 310048-743199

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 21, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 4, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 5, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to the Office of Initial Patent Examination.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

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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P.O. Box 1450
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DRW Aug-05

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of :
Tataryan et al. : DECISION ON PETITION
Application No. 10/279,705 :
Filed: 23 October, 2002 :
Atty Docket No. AVERY-66107 :

This is a decision on the petition filed on 24 March, 2005, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On 23 October, 2002, the application was filed as an application for reissue of U.S. Patent No. 6,136,130.

2. On 22 November, 2004, a final Office action was mailed, requiring a supplemental reissue oath or declaration.

3. On 24 March, 2005 (certificate of mailing date 22 March, 2005), a one (1) month extension of time, an amendment, and a supplemental declaration, signed by joint inventors Anhit Tataryan, Richard Mark Housewright, II, and Susan C. Manfreda Hanlon on behalf of themselves and inventor William T. Evans were filed.

4. On 24 March, 2005, the present petition was also filed, whereby petitioners assert that joint inventor Evans could not be reached to sign the supplemental declaration. Specifically,

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

petitioners' registered patent attorney, Scott R. Hanson, states that a copy of the supplemental declaration was sent to joint inventor Evans' last known address, but was returned as undeliverable. Additionally, despite an Internet search, petitioners have been unable to locate a current address for joint inventor Evans.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of William T. Evans on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Evans on the supplemental declaration filed on 24 March, 2005.

CONCLUSION

1. The petition is granted.

2. It is noted that a petition under 37 CFR 1.183 is now $400.00. As such, the balance due of $270.00 will be assessed to counsel's deposit account, No. 06-2475, as authorized on the petition for extension of time filed with the present petition under 37 CFR 1.183.

3. The application is being referred to Technology Center Art Unit 1734 for further processing.

4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

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AUG 12 2008

In re Application of :
Tataryan et al. : DECISION ON PETITION
Application No. 10/279,705 :
Filed: October 23, 2002 :
Atty Docket No. AVERY-66107 :

This is a decision on the petition filed on June 2, 2008, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On October 23, 2002, the application was filed as an application for reissue of U.S. Patent No. 6,136,130.

2. On November 22, 2004, a final Office action was mailed, requiring a supplemental reissue oath or declaration.

3. On March 24, 2005 (certificate of mailing date March 22, 2005), a one (1) month extension of time, an amendment, and a supplemental declaration, signed by joint inventors Anhit Tataryan, Richard Mark Housewright, II, and Susan C. Manfreda Hanlon on behalf of themselves and inventor William T. Evans were filed.

4. On March 24, 2005, the initial petition was also filed, whereby petitioners assert that joint inventor Evans could not be reached to sign the supplemental declaration. Specifically,

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

petitioners' registered patent attorney, Scott R. Hanson, states that a copy of the supplemental declaration was sent to joint inventor Evans' last known address, but was returned as undeliverable. Additionally, despite an Internet search, petitioners have been unable to locate a current address for joint inventor Evans.

5. On August 17, 2005, the petition was granted.

6. On January 2, 2008, a final Office action was mailed, requiring a supplemental reissue oath or declaration.

7. On June 2, 2008, the subject petition was filed, accompanied by a petition for a two (2) month extension of time, and the fee therefor.

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

Petitioners state that joint inventor Evans cannot be located to sign the supplemental reissue declaration. Petitioners cite the attempts made in the petition filed on March 24, 2005, and further state, via the statement of registered patent practitioner Scott Hansen, that petitioners' counsel conducted Internet search for Evans was undertaken on May 15, 2008, but that Evans could not be located.

In view of the efforts recounted in the petition to locate and obtain the signature of William T. Evans on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Evans on the supplemental declaration filed on June 2, 2008.

CONCLUSION

1. The petition is granted.

2. The application is being referred to Technology Center Art Unit 1791 for further processing.

3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 19 2009

OFFICE OF PETITIONS

AVERY DENNISON CORPORATION
PATENT GROUP
LAW DEPARTMENT - 3 SOUTH
PO BOX 7090
PASADENA CA 91109-7090

In re Application of :
Tataryan, et al. :
Application No. 10/279,705 : ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. 2307-US-R1 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 18, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed January 2, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on April 3, 2008. The Office mailed a Notice of Abandonment on March 18, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

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 is being forwarded to Group Art Unit 1791 for consideration of the RCE, filed May 18, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. 4

Philip J. Wyatt
WYATT TECHNOLOGY CORPRORATION
P.O. Box 3003
Santa Barbara, CA 93130

AUG 8 2003

In re Application of:
Philip J. Wyatt
Application No. 10/279,707
Filed: October 23, 2002
Attorney Docket No. WTC0203

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed January 15, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item XI: Inventions for Counter Terrorism.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item XI, must be accompanied by the petition fee under 37 C.F.R. 1.17(h) and a statement explaining how the invention contributes to countering terrorism.

The petition contains the petition fee and a statement in accordance with M.P.E.P., Section 708.02, Item XI.

For the above stated reasons, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner determines that restriction is necessary, he/she will follow the established telephone practice to resolve the restriction. If applicant elects with traverse the application will be forwarded to the Special Programs Examination unit to vacate this decision, and the application will be taken up by the examiner for action in its regular turn.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. Section 1309.

Inquiries regarding this decision should be directed to Jose' G. Dees at (703) 308-4628.

Jose' G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DELLETT & WALTERS
P. O. BOX 82788
PORTLAND OR 97282-0788

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JUL 11 2006

OFFICE OF PETITIONS

In re Application of :
Akio Morii et al. :
Application No. 10/279,761 : DECISION ON PETITION
Filed: October 24, 2002 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: A-301D4 :
Title: MULTILAYERED VOLUME :
HOLOGRAM STRUCTURE AND LABEL
FOR MAKING MULTILAYERED VOLUME
HOLOGRAM STRUCTURE

This is a decision on the petition filed on April 6, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 30, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 31, 2005. A notice of abandonment was mailed on April 5, 2006.

With the present petition, Petitioner has asserted that a response to this communication was submitted "on March 30, 2006[1]." Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of mailing dated March 30, 2006.

The electronic file has been reviewed, and the same contains the above-mentioned response. It is clear that this response was

1 Petition, page 1.

received on April 3, 2006, along with a three-month extension of time.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received on April 3, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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George R. Corrigan
5 Briarcliff Court
Appleton WI 54915

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of :
Winiecki et al :
Application No. 10/279,764 : DECISION ON PETITION
Filed: October 23, 2002 :
Attorney Docket No. CMD 218 :

This is a decision on the petition filed February 23, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On July 28, 2004, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. On January 27, 2005, petitioner submitted an amendment in response to the final Office action with a request for an extension of time for filing a reply within the third month. On February 8, 2005, the Office mailed a Notice of Abandonment. On February 23, 2005, petitioner filed the present petition to withdraw the holding of abandonment in the above-identified application.

In the petition, petitioner stated the Notice of Abandonment indicated that the Office did not receive a reply to the final Office action. Petitioner asserted that petitioner submitted a response on January 27, 2005, by facsimile transmission. Petitioner averred that the Office received the response as indicated in PAIR. Petitioner submitted a copy of the response with the present petition.

DISCUSSION

Initially, the Office must determine whether the application is, in fact, abandoned. Namely, the Office must review the present petition to evaluate if petitioner's assertions merely involve the cause of the abandonment. Therefore, where there is no dispute as to whether an application is abandoned because no disagreement exists regarding the sufficiency of the reply or controlling dates, the filing of a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment would be inappropriate. See MPEP 711.03(c)(I). Instead, a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. See MPEP 711.03(c)(I).

Upon reviewing petitioner's response to the final Office action, the Examiner issued an Advisory Action Before the Filing of an Appeal Brief, which is enclosed. As stated in the Advisory Action, petitioner's reply filed on January 27, 2005, failed to place this application in condition for allowance.

A response to a final Office action may be entered if it places the application in condition for allowance. However, the admission or refusal to admit an amendment after a final rejection will not operate to relieve the application from its condition. Further, the entry of an amendment after a final rejection is not a matter of right.

In the present case, it is regrettable that the Office did not mail an Advisory Action until the date of this decision; however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment is filed after a final Office action. Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[1] The mere filing of an amendment in response to a final Office action does not save the application from abandonment. Rather, the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application in response to a final rejection guarantees the pendency of the application.

CONCLUSION

The application is currently abandoned due to petitioner's failure to submit a proper response to the final Office action. Under the circumstances of this case, the application did not become abandoned due to a delay in reviewing the amendment or the mailing of the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office. Accordingly, the petition to withdraw the holding of abandonment is **dismissed**. The application will remain in its abandoned state until petitioner files a petition to revive the application (accompanied by the appropriate petition fee).

The Office strongly encourages petitioner to file a petition under 37 CFR 1.137(b) on the basis of unintentional delay.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the outstanding Office action;

(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 was unintentional.

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[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

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 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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Paper No. 11

Meyertons Hood Kivlin Kowert & Goetzel
PO Box 398
Austin, TX 78767-0398

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OFFICE OF PETITIONS

In re Application of :
George L. Stegemeier et al. :
Application No. 10/279,771 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. 5119-05001 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 27, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Office action mailed May 14, 2003, which set a period for reply of Thirty Days from the mailing date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 were permitted. Accordingly, the application became abandoned on June 15, 2003.

The application file is being forwarded to Technology Center AU 3673 for further processing.

Telephone inquiries regarding 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

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KUDIRKA & JOBSE, LLP
One State Street
Suite 800
Boston, MA 02109

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JUL 12 2005

Technology Center 2100

In re Application of:
Ransom L. RICHARDSON, et al.
Application No.: 10/279,785
Filed: October 24, 2002
For: METHOD AND APPARATUS FOR MAINTAINING CONSISTENCY OF A SHARED SPACE ACROSS MULTIPLE ENDPOINTS IN A PEER-TO-PEER COLLABORATIVE COMPUTER SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 23, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Kymerie Schmidt
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399

10279829 , 102502

00769-4582US1
Wright.

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

OCT - 7 2002

Mailed:

Paper No.: 24

In re application of
Bamdad BAHAR et al.
U.S. Patent No. 6,254,978
Issued: July 3, 2001
Application Number: 09/209,932
Filed: July 8, 1998
For: ULTRA-THIN INTEGRAL COMPOSITE MEMBRANE

DECISION ON PETITION

This is a decision on the petition filed on May 14, 2002 to correct inventorship in a patent under 37 CFR 1.324. On May 7, 2001, the petitioner filed a REQUEST to correct the inventorship under 37 CFR 1.48(a)(a) requesting that Robert S. Mallouk be added as an inventor. However, that REQUEST was not acted upon before the pending application became a patent. Thus, as set forth in MPEP 1481, that REQUEST is being treated herein as a petition 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 Robert S. Mallouk as an inventor.

Blaine R. Copenheaver, Jr., SPrE
Technology Center 1700
Chemical and Materials Engineering

Michael S. Marcus
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154

27123
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JUN 13 2005

Director's Office
Group 3700

John C. Altmiller, Esq.
Kenyon & Kenyon
Suite 700
1500 K Street, N.W.
Washington, DC 20005-1257

In re application of
Masahiro Ogawa

Serial Number: 10/279,859
Filed: October 25, 2002

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **EXHAUST ENERGY RECOVERY SYSTEM FOR COMBUSTION ENGINE**

The above-identified application is withdrawn from issue after payment of the issue fee to permit reopening of prosecution, due to newly discovered references. The examiner will communicate an office action to you.

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 applicant.

Telephone inquiries should be directed to Tom Denion at (571) 272-4859.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

/Richard A Bertsch/

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 6/13/05

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CUPERTINO CA 95014

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
William R. Blair et al :
Application No. 10/279,864 : DECISION ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. ARIBP056 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 February 26, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 24, 2006. Accordingly, the date of abandonment of this application is February 27, 2007. A Notice of Abandonment was mailed on March 21, 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37

CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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KRAMER & AMADO PC
1725 DUKE STREET
SUITE 240
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Patent No. 7,094,561 :
Issue Date: August 22, 2006 :
Application No. 10/279,884 : DECISION ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. BEP 3007-CIP :

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION", filed May 23, 2007.

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 was previously submitted on November 17, 2006. The $130 processing fee set forth in 37 CFR 1.17(i) has been charged to Deposit Account No. 50-0578.

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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Mark E. Ungerman
FULBRIGHT & JAWORSKI L.L.P.
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801 Pennsylvania Avenue, N.W.
Washington, DC 20004-2623

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JAN 10 2005

OFFICE OF PETITIONS

In re Application of :
Lucas Van Der Mee :
Application No. 10/279,909 : ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. WO-355015 :

This is a decision on the petition under 37 CFR 1.137(a), filed September 23, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(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 in a timely manner to the non-final Office action mailed August 11, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 12, 2003. A Notice of Abandonment was mailed on May 12, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply,
(2) the petition fee,
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard

35 USC 133 states, "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." (emphasis added)

"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. His interpretation of those provisions is entitled to considerable deference."[1]

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."[2] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[3] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[4]

Facts

The application was filed on October 25, 2002.

A nonpublication request was not filed with the application.[5]

On November 22, 2002, a Filing Receipt was mailed to applicant indicating a projected publication date for the application of April 29, 2004.

Petitioner chose to let the application become abandoned in reliance on 35 USC 122(b)(2)(A)(i) which states that an application will not be published if it is no longer pending.

---

[1] 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, 1425, 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 Defense 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."))

[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[4] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[5] If an applicant makes a nonpublication request upon filing with the appropriate certifications, the utility or plant application filed on or after November 29, 2000 will not be published under 35 U.S.C. 122(b)(1). See 35 U.S.C. 122(b)(2)(B)(i) which states, "If an applicant makes a request upon filing, certifying that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided in paragraph (1)."

Petitioner chose not to respond to the August 11, 2003 Office action and to let the application become abandoned.

Since neither a response nor extensions of time were submitted, the application became abandoned as a matter of law as of midnight of November 11, 2003.

A timely response to the Office action could have been filed, *with the appropriate payment for an extension of time*, as late as February 11, 2004.

It should be noted that a response need not have been physically received by the Office by February 11, 2004, in order for the response to have been timely. The timeliness of a response mailed in compliance with 37 CFR 1.8 is based on the date the response is mailed, and not the date the response is received *even if* the later date is months after the paper was mailed. It is also noted that a delay will always exist between the time a paper is received by the Office and the date a paper is both matched with the file and recognized by the proper official.

Applicant did not expressly abandon the application.[6] As a result, the application was published on April 29, 2004.

A Notice of Abandonment was mailed by the examiner on May 12, 2004.

Petitioner fails to state the date petitioner discovered the application has published despite petitioner's wishes.

The instant petition was filed on September 23, 2004.

Analysis

Petitioner seeks to revive the application stating it would not have abandoned the application if it had realized the application would be published.

The Office need not address the issue: "should the application have been published?" Instead, the focus must be on petitioner's choice to abandon the application.

The application was intentionally abandoned. An application cannot be revived under the unavoidable standard when the showing fails to meet the requirements of the more lenient unintentional standard of 37 CFR 1.137(b).

Petitioner does not argue the abandonment was unavoidable. Petitioner simply argues that, had it known what would happen in the future, it would not have abandoned the application. However, events in the future cannot retroactively make intentional and avoidable acts by petitioner both unintentional and unavoidable. In addition, the record implies that, had petitioner known what would happen in the future, petitioner would have simply changed the manner in which it abandoned the application and filed an request to expressly abandon the application in compliance with 37 CFR 1.138(c).

---

[6] 37 CFR 1.138(c) states,

An applicant seeking to abandon an application to avoid publication of the application . . . must submit a declaration of express abandonment by way of a petition under this section . . . in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process. Applicant should expect that the petition will not be granted and the application will be published in regular course unless such declaration of express abandonment and petition are received by the appropriate officials more than four weeks prior to the projected date of publication.

The showing of record fails to prove that the entire delay in filing a proper reply to the Office action and a petition to revive from the date of abandonment until September 23, 2004, was unavoidable. Therefore, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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 should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/22/05

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 10/279917 6818321

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:

_____

_____

_____

_____

_____

_____ **SPE**

1775 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/279,926	10/25/2002	Eric M. Smeed	ISR 00-30CIP 28	2044

27370 7590 03/28/2008

OFFICE OF THE STAFF JUDGE ADVOCATE
U.S. ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
ATTN: MCMR-JA (MS. ELIZABETH ARWINE)
504 SCOTT STREET
FORT DETRICK, MD 21702-5012

EXAMINER	
FERGUSON, MICHAEL P	
ART UNIT	**PAPER NUMBER**
3679	

MAIL DATE	DELIVERY MODE
03/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OFFICE OF THE STAFF JUDGE ADVOCATE
U.S. Army Medical Research and Material Command
ATTN: MCMR-JA (Ms. Elizabeth Arwine)
504 Scott Street
Fort Detrick, MD 21702-5012

MAILED
FROM DIRECTORS OFFICE
MAR 27 2008
TECHNOLOGY CENTER 3600

In re Application of :
Eric M. Smeed :
Application No. 10/279,926 : DECISION ON PETITION
Filed: October 25, 2002 : UNDER 37 CFR 1.59
Attorney Docket No.: ISR 00-30CIP 28 :
For: CRITICAL CARE PLATFORM FOR :
LITTERS :

This is a decision on the petition under 37 CFR 1.59(b), filed January 24, 2003, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that a document in an envelope, filed January 24, 2003, be expunged from the record. Petitioner states that the information contains proprietary material and that the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Daniel P. Stodola at (571) 272-7087.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

TL/DS: 3/18/07

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

COPY MAILED

APR 2 3 2004

OFFICE OF PETITIONS

Applicant: Mitsuishi et a.
Appl. No.: 10/279,931
Filing Date: October 25, 2002
Title: OPTICAL ELEMENT HAVING ANTIREFLECTION FILM
Attorney Docket No.: 08071.0010-00
Pub. No.: US 2003/0198818 A1
Pub. Date: October 23, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on November 19, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR 2 6 2003

UR
PAPER NO. 5

In re Application of :
Daniel J. MacPhee et al. :
Serial No. 10/279,939 :
Filed: October 25, 2002 :
For: COMPUTER-CONTROLLED :
COMPOUNDING EXTRUSION BLENDING :
APPARATUS AND METHOD :

DECISION
ON
PETITION
UNDER 708.02,VIII

This is in response to the petition filed December 23, 2002, requesting that the above-identified application be granted Special Status under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(c) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows that Class 425, Subclasses 142, 144, 145, 148, 151, 169, 190, 205, 297, 311, 327 and 376.1 should have been searched.

Accordingly, the petition is **DENIED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Chris Tanner,Esq.
1201 S. Eads Street, # 1811
Crystal City, VA 22202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-25-06

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/274977 Patent No.: 6924556

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check foreign priority date can this be approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

SPE

2822
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-25-06

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/274977 Patent No.: 6924556

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check foreign priority date can this be Approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Zandra V. Smith
Supervisory Patent Examiner

SPE 2822
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. 6794248
Issue Date: September 21,2004
Application No. 10279981
Filed: October 25,2002
Attorney Docket No. 021295

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 28,2009 ,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 January 28,2009 . 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

Dunlap, Codding & Rogers, P. C.
P. O. Box 16370
Oklahoma City, OK 73114

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MAR 2 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Donald E. Weder	:	
Application No. 10/280,016	:	DECISION GRANTING
Filed: October 23, 2002	:	PETITION
Attorney Docket No. 8403.539	:	

This is a decision on the petition filed January 14, 2003, requesting that the above-identified application be accorded a filing date of October 23, 2002, rather than the presently accorded date of October 22, 2002. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail Service on October 23, 2002. In support, the petition is accompanied by a copy of Express Mail receipt No. EV157922441US (the same Express Mail number found on the original application papers located in the official file) showing a USPS stamp of October 23, 2002. Petitioner has also supplied a copy of the "USPS Track and Confirm Shipment History" which corroborates petitioner's allegations that the package in question was received by the USPS on October 23, 2002.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of October 23, 2002.**

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Sherry 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
ALEXANDRIA, VA 22313-1450
www.uspto.gov

McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Koji Oguma. :
Application No. 10/280,040 : ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. 58647-145 :

This is a decision on the petition, filed September 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 3736 for further processing of the request for continued examination under 37 CFR 1.114 filed September 7, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Koji Oguma. :
Application No. 10/280,040 : ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. 58647-145 :

This is a decision on the petition, filed September 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 3736 for further processing of the request for continued examination under 37 CFR 1.114 filed September 7, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 17 2004

McDERMOTT, WILL & EMERY

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
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AUG 11 2005
MCDERMOTT WILL & EMERY
WASHINGTON D.C.

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of
Koji Oguma
Application No. 10/280,040
Filed: October 25, 2002
Attorney Docket No.: 58647-145

ON PETITION

This is a decision on the petition, filed August 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 1, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3736 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).

McDermott
Will&Emery

Boston Brussels Chicago Düsseldorf London Los Angeles Miami Munich
New York Orange County Rome San Diego Silicon Valley Washington, D.C.

FACSIMILE

Date: July 6, 2006 **Time Sent:**

To:	**Company:**	**Facsimile No:**	**Telephone No:**
Examiner Brad Harris	USPTO	571 270 9838	

From:	Michael A. Messina	*Direct Phone:*	202.756.8624	
E-Mail:	mmessina@mwe.com	*Direct Fax:*	202.756.8087	
Sent By:		*Direct Phone:*		
Client/Matter/Tkpr:	58647-145/ 4252	*Original to Follow by Mail:*		No
		Number of Pages, Including Cover:		4

Re: Re Serial No. 10/280,040

Message:

As requested please find attached a copy of the Petition to Withdraw from Issue, which was previously filed on August 3, 2005.

Thank you.

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the original message to us at the below address by mail. Thank you.

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL AS SOON AS POSSIBLE.

Main Facsimile: 202.756.8087 Facsimile Operator: 202.756.8090

U.S. practice conducted through McDermott Will & Emery LLP.
600 Thirteenth Street, N.W. Washington, D.C. 20005-3096 Telephone: 202.756.8000

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

December 22, 2004

In re Application of	:	
Feng Dong	:	
Serial Number : 10/280,101	:	WITHDRAWAL
Filed : October 24, 2002	:	FROM
For : WET FRICTION MATERIAL WITH PITCH CARBON FIBER	:	ISSUE

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Emch, Schaffer, Schaub & Porcello Co.
P O Box 916
One Seagate Suite 1980
Toledo, OH 43697

cc: Allowed Files, Pk3-910

UNITED STATES PATENT & TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

PATENT & TRADEMARK OFFICE
MAILED
MAY 1 4 2003
LICENSING & REVIEW

Eric B. Meyertons
Conley, Rose & Tayon, PC
P. O. Box 398
Austin, TX 78767-0398

In re Application of:
Vinegar
For Serial No. 10/280,102

DECISION ON
REQUEST FOR
RECONSIDERATION

Filed: October 24, 2002

For: **ISOLATION OF SOIL WITH A LOW TEMPERATURE BARRIER PRIOR TO CONDUCTIVE THERMAL TREATMENT OF THE SOIL**

This is a decision on the REQUEST FOR RECONSIDERATION filed March 12, 2003 responding to the 45-Day Requirement mailed February 2, 2003.

The request has been **DENIED** to the extent indicated below.

42 U.S.C. 2182 states in part "... useful in the production or utilization of special nuclear material **or atomic energy**". A review of the application file history reveals among other things soil remediation of radioactive material (plutonium) as indicated on page 5 of the specification. Therefore under the directions from the Department of Energy (DOE) this application has been made available to them under 42 U.S.C. 2182 since the above subject matter relates to at least one of the following:

G. Materials, apparatus and methods concerning isotope and/or radioactive source technology including those utilizing (including responsive to) radioactive sources in:

a. Life Sciences such as medicine (diagnostic and therapeutic), ecology, disease and pest control, animal husbandry, etc.

b. Industrial processes such as food processing, sterilization, polymer production, etc.

c. Investigations of the environment or the earth

H. Instruments employing a radioactive source and/or radioactivity detector in the operation thereof.

The March 12, 2003 Request for Reconsideration has been considered however, it appears to be based on a misinterpretation of the subject matter which is encompassed by the phrase "useful in the production or utilization of special nuclear material or atomic energy".

As pointed out above, this patent application involves soil remediation of radioactive material (plutonium) which is interpreted as a method concerning an isotope and/or a radioactive source.

Therefore this application is considered to be concerning isotopes within the ecology section of the life sciences (G) (a) above.

Joanne P. Hodge
Supervisory Legal Instruments Examiner
Licensing and Review
Patent Technology Center 3600

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)
6779518	2004-08-24	10280115	2002-10-23	NPS-PT001

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 F. Snyder/	Date (YYYY-MM-DD)	2008-12-23
Name	Michael F. Snyder	Registration Number	58347

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. 6779518
Issue Date: August 24,2004
Application No. 10280115
Filed: October 23,2002
Attorney Docket No. NPS-PT001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 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 December 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 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. 7

HOWREY SIMON ARNOLD & WHITE,
LLP
750 BERING DRIVE
HOUSTON, TX 77057-2198

In re Application of :
Thames et al. :
Application No. 10/280,119 :
Filed: October 24, 2003 :
Attorney Docket No.: :
13002.0056.NPUS00 USMA:56 :

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JAN 14 2004
OFFICE OF PETITIONS

This is a decision on the Petition to Establish That Drawings Are Not Necessary Under 35 U.S.C. § 113 for a Filing Date-Response to Notice of Incomplete Nonprovisional Application, filed July 22, 2003, requesting the above-identified application be accorded a filing date of October 24, 2002.

The petition is granted.

The application was filed on October 24, 2002. On March 26, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had not been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition and request for a two (2) month extension of time. The extension of time request is hereby granted. The Petition avers that drawings are not required under 35 U.S.C. §113 because they are not necessary for the understanding of the invention.

A review of the file reveals that Petitioner is correct, the specification contains process claims (i.e. claims 1 - 14). As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains process claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In this instance, a petition is not necessary to add the drawing figures. Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a).

In view of the above, the Notice mailed March 26, 2003, was mailed in error and is hereby withdrawn.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of October 24, 2002, and an indication that no drawings were required or present on filing.

Thereafter, the application file will be forwarded to the appropriate technology center for examination in due course, including a review of the drawing figures filed July 22, 2003.

No petition fee is required and none has been charged.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods 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
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Christopher G.M. Ken, et al.
Application No. 10/280,125
Filed: October 25, 2002
Attorney Docket No. 021186-000910US

This is a decision in response to the petition, filed July 25, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed January 18, 2007. On July 25, 2007, the present petition was filed. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3773 for consideration of the amendment filed July 25, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KIMBERLY DILIBERTI, PARALEGAL
ALLEGIANCE CORPORATION
1430 WAUKEGAN ROAD
MCGAW PARK, IL 60085-6787

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of :
John Krueger :
Application No. 10/280,166 : ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. SPEC-6138 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 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 February 17, 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 August 17, 2005 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed August 30, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on August 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 a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 17, 2005 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3736.

Wan Laymon
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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of :
John G. Babish, et al. :
Application No. 10/280,198 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. ASHMET.001DV1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 31, 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 May 2, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on September 14, 2006 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The power of attorney submitted with the petition on September 14, 2006 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision. The 3.73(b) statement attached to the Power of Attorney does not show a proper chain of title nor does it contain the proper reel and frame number.

Office records indicate that the application was accorded small entity status. If petitioners are no longer accorded Small Entity status, the petitioner must file a statement of Loss of Entitlement under 37 CFR 1.27(g). If petitioners are still entitled to small entity status, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1655 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: G. MATTHEW MCCLOSKEY
MCDERMOTT, WILL & EMERY, LLP
28 STATE STREET
BOSTON, MA 02109

Attachment: Blank copy 37 CFR 3.73(b)

PTO/SB/96 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-18-09

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/280199 Patent No.: 6827031

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	All changes apply.
☒ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Only the change to column 16, line 22 should be entered. All other changes should NOT be entered as they broaden the scope of the claims (see attached).

SPE

3617
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,827,031
APPLICATION NO. : 10/280,199
ISSUE DATE : December 7, 2004
INVENTOR(S) : Yusuke Aoyama

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At Column 16, Line 9-10, in Claim 1, after "device," please delete "first and second" and insert - - a - -, therefor.

Do NOT enter

At Column 16, Line 10, in Claim 1, please delete "modules" and insert - - module - -, therefor.

At Column 16, Line 11, in Claim 1, please delete "each" and insert - - the - - . therefor.

At Column 16, Line 16, in Claim 1, please delete "each" and insert - - the - - . therefor.

At Column 16, Line 17, in Claim 1, please delete "each" and insert - - the - - . therefor.

ok

At Column 16, Line 22, in Claim 1, please delete "sponsoring" and insert - - sponson - - . therefor.

6804455
031309

MAILING ADDRESS OF SENDER:

Michael A. Guiliana
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. FY.50305US0A

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/4/07

TO SPE OF : ART UNIT 2891 Baumeister, Bradley

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/280200 Patent No.: 6841796

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2891
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

JUN 28 2004

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of	:
Patrick D. Harney	:
Serial No.: 10/280,261	: SUSPENSION OF ACTION
Filed: October 24, 2002	:
Attorney Docket No.: VECT-P03-003	:

This is in response to the petition under 37 CFR 1.103, filed May 12, 2004, to suspend prosecution of the above identified application for six months.

Applicant seeks suspension of the examiner's action on this application for a period of six months because of death of the inventor.

BACKGROUND

This application was filed October 24, 2002, and was forwarded to an examiner after initial processing. The examiner of this application issued a non-Final Office action on January 9, 2004, setting forth rejections under 35 U.S.C. 102 and 112. Applicants replied on May 12, 2004, including a one month extension of time and fee therefor. This petition was filed with the response.

DISCUSSION

37 CFR 1.103. Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in §1.17(I). Action will not be suspended when a reply by applicant to an Office action is required.

M.P.E.P. 709 relates to suspension of action in an application. 37 CFR 1.103 permits the Office to suspend action upon petition by applicants for **good and sufficient cause** (emphasis added). Applicant's attorney state that the inventor has died and the estate is handling commercialization of the invention. Determination of patentability is not dependent on commercialization of the invention and is not considered a good and sufficient cause, nor should it affect prosecution.

DECISION

The petition to suspend action is DENIED. Applicant has not presented a "good and sufficient cause" warranting suspension of action by the examiner.

The application will be forwarded to the examiner of record for further consideration not inconsistent with this decision.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Offic facsimile number 703-872-9306.

Bruce Kisliuk
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

Pennie and Edmonds, LLP
3300 Hillview Avenue
Palo Alto, CA 94304

BEST AVAILABLE COPY

COPY MAILED

MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Shyama Mukherjee, et al.	:	
Application No. 10/280,270	:	DECISION GRANTING
Filed: October 23, 2002	:	PETITION
Attorney Docket No. 8317-167-999	:	

This is a decision on the petition filed January 22, 2003, requesting that the above-identified application be accorded a filing date of October 23, 2002, rather than the presently accorded date of October 24, 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 23, 2002 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL451598770US showing an illegible handwritten "date-in" as well as a "USPS SAN JOSE CA" receipt stamp. The same Express Mail receipt number appears on the original "Transmittal for Patent Application," which includes the Express Mail label number. Additionally, the Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated October 23, 2002 on the cover page for the application papers.

In view of the USPS receipt stamp of October 23 2002, appearing on the same Express Mail label, it is concluded that the application was deposited as "Express Mail" with the USPS on October 23, 2002.

The petition is **GRANTED**.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of October 23, 2002.** Thereafter, the application file will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Sherry Brinkley
for

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

BEST AVAILABLE COPY

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

JUN 29 2004

Mailed:_____

rvk

Paper Number: ____

In re application of :
Shyama P. Mukherjee et al : DECISION ON
Serial No. 10/280,270 : PETITION
Filed: October 23, 2002 :
For: HYDROTHERMAL TREATMENT OF NANOSTRUCTURED FILMS:

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181, filed April 06, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 29, 2004, for failure to timely file a proper response to the Office letter dated July 11, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response to the Office letter of July 11, 2003 on September 25, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the pertitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of July 11, 2003 in a timely manner. The evidence provided includes: 1) a copy of the response and Request for Correction of Filing Receipt filed by Express Mail on September 25, 2003; 2) a copy of the Express Mail label and an Express Mail Certification dated September 25, 2003; and 3) a copy of the returned stamped postcard showing receipt of the response and Request for Correction of Filing Receipt by the PTO dated September 25, 2003.

Therefore, the abandonment dated March 29, 2004 was in error. A review of the application file indicates that this error was administratively corrected via Notice of Rescinded Abandonment dated April 07, 2004, and Notice of Allowability and

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Notice of Allowance and Issue Fee Due were mailed out on April 13, 2004. Therefore, no further action is required.

The Petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MORGAN, LEWIS & BOCKIUS, LLP.
3300 HILLVIEW AVENUE
PALO ALTO, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

JAN 07 2010

OFFICE OF PETITIONS

In re Application
Nigel C Phillips et al.
Application No. 10/280,274
Filed: October 25, 2002
Attorney Docket No. **02811-0242**
(42368-2 79803)

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE filed October 23, 2009. Applicant requests that the determination of patent term adjustment be corrected from 439 days to 1271 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the of the patent term adjustment concerning those regulations until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment

and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Nigel C. Phillips	: DECISION ON REQUEST FOR
Patent Number	: 7662792	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/280,274	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1153** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 4

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
Vahit H. Hacigumus et al
Application No. 10/280,306
Filed: October 25, 2002
Attorney Docket No.
SVL920010098US1/2341P

: 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 March 28, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/333,036 filed November 6, 2001.

The petition is **Granted**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on October 25, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/333,036, which was filed on November 6, 2001, for which priority is claimed. A reference to the prior provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/333,036 is granted.

The granting of the petition to accept the delayed benefit claim to the prior application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior application. In order for the instant application to be entitled to the benefit of the prior application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center AU 2171 for processing the amendment submitted March 28, 2003 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

AKIN GUMP STRAUSS HAUER & FELD
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7086

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Satoshi Umemura et al :
Application No. 10/280,371 : NOTICE
Filed: October 25, 2002 :
Attorney Docket No. 600834-001US :
(F0486A) :

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 3683.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

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NOV 04 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 7

In re application of
Robert Michaud, et al.
Application No. 10/280,384
Filed: October 25, 2002
For: PORTFOLIO REBALANCING BY MEANS OF RESAMPLED EFFICIENT FRONTIERS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on March 28, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in deciding this petition is regretted.

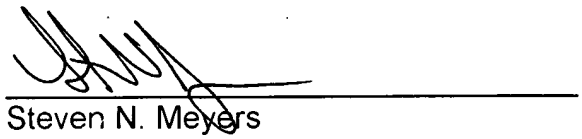
The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/cps 10/30/03

Practitioner's Docket No. 2165/103 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: 6,928,418
Issued: August 9, 2005
Name of Patentee: Michaud Partners, LLP

Title of Invention: Portfolio Rebalancing by Means of Resampled Efficient Frontiers

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 C.F.R. § 1.322(a))

1. Attached is PTO/SB/44 (also Form PTO-1050) suitable for printing.

2. The exact page and line number where the errors are shown correctly in the application file are:

   Page 2, line 15 of Supplemental Response dated December 14, 2004.

3. Please send the Certificate to:

   Name: Samuel J. Petuchowski
   Address: Bromberg & Sunstein
   125 Summer Street
   Boston, MA 02110
   U.S.

/Samuel J. Petuchowski, Reg. #37910/
Samuel J. Petuchowski, Attorney of Record

Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618
(617) 443-9292

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,928,418

APPLICATION NO.: 10/280,384

ISSUE DATE : August 9, 2005

INVENTOR(S) : Robert Michaud, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Col. 14, lines 57-59
replace "defining a statistical metric of the target portfolio based on norm values of a set of associated simulated efficient portfolios with respect to the target portfolio;"

with --defining a statistical metric of the target portfolio based on norm values of a set of associated simulated efficient portfolios from the meta-resampled efficient frontiers with respect to the target portfolio;--

APPROVED: /N.S./

Approved: /Charles R. Kyle/

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Samuel J. Petuchowski
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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COMMISSIONER FOR PATENTS
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Paper No. 8

SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Debin, et al.	:	
Application No. 10/280,408	:	DECISION REFUSING
Filed: October 25, 2002	:	STATUS UNDER 37 CFR
Atty. Dkt. No.: 1455-02	:	1.47(a)
Title: PARTICULATE COMPLEX FOR ADMINISTERING NUCLEIC ACID INTO A CELL	:	

This decision is in response to the petition under 37 CFR 1.47(a), filed May 29, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 25, 2002 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed October 4, 2002 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks item (2). An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration submitted herewith is not acceptable for it contains alterations that have not been initialed and/or dated as per 37 CFR 1.52(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450

	Alexandria, VA 22313-1450
By facsimile:	(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

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. 11

SCHNADER HARRISON SEGAL & LEWIS, LLP
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OFFICE OF PETITIONS

In re Application of Debin, et al.	
Application No. 10/280,408	DECISION GRANTING
Filed: October 25, 2002	STATUS UNDER 37 CFR
Atty. Dkt. No.: 1455-02	1.47(a)
Title: PARTICULATE COMPLEX FOR ADMINISTERING NUCLEIC ACID INTO A CELL	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed August 22, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventors Roger Kravtzoff, Marinette Moynier, and Phillipe Pajot either cannot be reached or located despite diligent effort and/or have refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROGER KRAVTZOFF
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PARIS, FRANCE

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OFFICE OF PETITIONS

In re Application of
Debin, et al.
Application No. 10/280,408
Filed: October 25, 2002
Atty. Dkt. No.: 1455-02
Title: PARTICULATE COMPLEX FOR ADMINISTERING NUCLEIC ACID INTO A CELL

LETTER

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MARINETTE MOYNIER
36 AVENUE TOLSANE
31520 RAMONVILLE SAINT AGNE
PARIS, FRANCE

In re Application of
Debin, et al.
Application No. 10/280,408
Filed: October 25, 2002
Atty. Dkt. No.: 1455-02
Title: PARTICULATE COMPLEX FOR ADMINISTERING NUCLEIC ACID INTO A CELL

LETTER

Dear Madame:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

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Alesia M. Brown
Senior Petitions Attorney
Office of Petitions