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Paper No. 6

LADAS & PARRY
SUITE 2100
5670 WILSHIRE BOULEVARD
LOS ANGELES CA 90036-5679

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MAY 0 1 2003

OFFICE OF PETITIONS

In re Application of
Dodd, Bryant, and Mikulan
Application No. 10/280,414
Filed: 25 October, 2002
Attorney Docket No. B-4742CIP
620297-7

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on 24 March, 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 25 October, 2002, without an executed oath or declaration. Accordingly, on 18 December, 2002, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" requiring the statutory basic filing fee, additional claim fee(s), an executed oath or declaration, and a surcharge for their late filing.

In response, on 24 March, 2003 (certificate of mailing date 18 March, 2003), petitioners filed a request and payment for a one (1) month extension of the time to reply to the aforementioned Notice, accompanied by an executed declaration naming Simon Dodd,

Frank Randolph Bryant, and Paul I. Mikulan as joint inventors and signed by joint inventor Dodd on behalf of himself and joint inventors Bryant and Mikulan, and the requiring filing fees, surcharge, and authorization to charge the petition fee.

Petitioners assert that the declaration was sent to the counsel for the non-signing inventor's employer, but that a signed oath or declaration was not received from either Bryant or Mikulan.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application as filed (specification including claims, drawings if any, and the declaration) was sent or given to the non-signing inventors or their counsel. In this case, only the declaration and power of attorney is alleged to have been sent to the non-signing inventors' attorney.

Petitioners should send a copy of the application (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor at his last known address with a request that he sign and return the declaration. Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or provide details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventors refuse to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in

an affidavit or declaration of facts.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 08-2025 as authorized in the present petition.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

LADAS & PARRY
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LOS ANGELES CA 90036-5679

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OFFICE OF PETITIONS

In re Application of	:
Dodd, Bryant, and Mikulan	: CORRECTED
Application No. 10/280,414	: DECISION REFUSING STATUS
Filed: 25 October, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. B-4742CIP	:
620297-7	:

This is a corrected decision in response to the petition filed under 37 CFR 1.47(a) on 24 March, 2003.

The petition is **DISMISSED**.

The period for reply remains as set in the decision mailed on 1 May, 2003. 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 25 October, 2002, without an executed oath or declaration. Accordingly, on 18 December, 2002, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" requiring the statutory basic filing fee, additional claim fee(s), an executed oath or declaration, and a surcharge for their late filing.

In response, on 24 March, 2003 (certificate of mailing date 18 March, 2003), petitioners filed a request and payment for a one (1) month extension of the time to reply to the aforementioned Notice, accompanied by an executed declaration naming Simon Dodd, Frank Randolph Bryant, and Paul I. Mikulan as joint inventors and

signed by joint inventor Dodd on behalf of himself and joint inventors Bryant and Mikulan, and the requiring filing fees, surcharge, and authorization to charge the petition fee.

Petitioners assert that the declaration was sent to the counsel for the non-signing inventor's employer, but that a signed oath or declaration was not received from either Bryant or Mikulan.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (3). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application as filed (specification including claims, drawings if any, and the declaration) was sent or given to the non-signing inventors or their counsel. In this case, only the declaration and power of attorney is alleged to have been sent to the non-signing inventors' attorney.

Petitioners should send a copy of the application (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor at his last known address with a request that he sign and return the declaration. Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or provide details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventors refuse to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

With regards to item (3), upon further review it is noted that the attorney who signed the petition, Richard P. Berg, is not listed as an authorized user of Deposit Account No. 08-2025. The petition fee therefore cannot be charged to the deposit account as requested in the petition. Any renewed petition must be accompanied by authorization, by an authorized individual, to charge petitioner's deposit account or other form of payment. Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[1]

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.22(a).

COPY

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Paper No. 6

LADAS & PARRY
SUITE 2100
5670 WILSHIRE BOULEVARD
LOS ANGELES CA 90036-5679

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OFFICE OF PETITIONS

In re Application of Dodd, Bryant, and Mikulan Application No. 10/280,414 Filed: 25 October, 2002 Attorney Docket No. B-4742CIP 620297-7	CORRECTED DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a corrected decision in response to the petition filed under 37 CFR 1.47(a) on 24 March, 2003.

The petition is **DISMISSED**.

The period for reply remains as set in the decision mailed on 1 May, 2003. 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 25 October, 2002, without an executed oath or declaration. Accordingly, on 18 December, 2002, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" requiring the statutory basic filing fee, additional claim fee(s), an executed oath or declaration, and a surcharge for their late filing.

In response, on 24 March, 2003 (certificate of mailing date 18 March, 2003), petitioners filed a request and payment for a one (1) month extension of the time to reply to the aforementioned Notice, accompanied by an executed declaration naming Simon Dodd, Frank Randolph Bryant, and Paul I. Mikulan as joint inventors and

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signed by joint inventor Dodd on behalf of himself and joint inventors Bryant and Mikulan, and the requiring filing fees, surcharge, and authorization to charge the petition fee.

Petitioners assert that the declaration was sent to the counsel for the non-signing inventor's employer, but that a signed oath or declaration was not received from either Bryant or Mikulan.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (3). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application as filed (specification including claims, drawings if any, and the declaration) was sent or given to the non-signing inventors or their counsel. In this case, only the declaration and power of attorney is alleged to have been sent to the non-signing inventors' attorney.

Petitioners should send a copy of the application (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor at his last known address with a request that he sign and return the declaration. Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or provide details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventors refuse to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

With regards to item (3), upon further review it is noted that the attorney who signed the petition, Richard P. Berg, is not listed as an authorized user of Deposit Account No. 08-2025. The petition fee therefore cannot be charged to the deposit account as requested in the petition. Any renewed petition must be accompanied by authorization, by an authorized individual, to charge petitioner's deposit account or other form of payment. Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[1]

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] 37 CFR 1.22(a).

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Paper No. 10

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LOS ANGELES CA 90036-5679

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JUL 14 2003

OFFICE OF PETITIONS

In re Application of Dodd, Bryant, and Mikulan Application No. 10/280,414 Filed: 25 October, 2002 Attorney Docket No. B-4742CIP 620297-7	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a)[1] filed on 30 June, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the statement of Karyn Lao included with the present petition establishes that both non-signing inventor's were sent a copy of the application. No response was received from non-signing joint inventor Mikulan. Additionally, a telephone call was received from the attorney for joint inventor Bryant's current employer acknowledging receipt by joint inventor Bryant of the application. An executed declaration was not received from either inventor, however.

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

---

[1]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.

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

The petition fee of $130.00 will be charged to counsel's deposit account, No. 08-2025 as authorized in the present petition.

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Frank Randolph Bryant
2125 Crescent Place
Denton, TX 76209

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JUL 14 2003

OFFICE OF PETITIONS

In re Application of
Dodd et al.
Application No. 10/280,414
Filed: 25 October, 2002
For: DEVICES AND METHODS FOR INTEGRATED CIRCUIT MANUFACTURING.

Dear Mr. Bryant:

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

LADAS & PARRY
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LOS ANGELES CA 90036-5679

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Mailed: DEC - 3 2004

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Paper Number _____

In re application of
Aiko Hanyu et al.
Serial No. 10/280,418
Filed: October 25,2002
For: METAL BOND STRENGTH IN POLYPROPYLENE FILMS

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION, filed July 01, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 09, 2004, for failure to timely respond to the Office action be withdrawn. The requester asserts that the Office action mailed August 27, 2003 was not received at the applicant's correspondence address.

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, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicants or applicant's representative did not receive the Notice of Allowance, mailed August 27, 2003. The evidence provided includes a statement by the petitioner that the Notice of Allowance, mailed August 27, 2003 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 was not received. Also provided is a copy of the attorney's application docket records where the Office action would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for further action on the merits.
The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

William D. Jackson
Locke, Liddell, & Sapp LLP
2200 Ross Avenue Suite 2200
Dallas, TX 75201-6776

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

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JUN 23 2008

In re Patent No. :
7,084,838 :
Application No. 10/280,419 : DECISION GRANTING PETITION
Filing Date: October 24,2 002 :
Issue Date: August 1, 2006 :
Attorney Docket No. GRANP2.001C7

This is a decision on the petition under 37 CFR 1.182, filed January 14, 2008, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the above-cited application matured into U.S. Patent No. 7,084,838 on August 1, 2006. Petitioner contends, however, that the patent was lost.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was lost. The Office of Data Management is directed to issue duplicate Letters of Patent.

The fee for the instant petition is $400.00. Deposit account 11-1410 will be charged accordingly.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

UNITED STATES 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. 6595564
Issue Date: July 22,2003
Application No. 10280438
Filed: October 25,2002
Attorney Docket No. 1357-P1

:

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

:

This is a decision on the electronic petition, filed July 21,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 21,2008 . 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

GLENN W LIPPMAN
9106 B SW 22ND STREET
BOCA RATON FL 33428

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OFFICE OF PETITIONS

In re Application of	:	
Glenn Lippman, Gerald Lippman	:	
Application No. 10/280,443	:	ON PETITION
Filed: October 25, 2002	:	
Title: Semi-Automatic Vial Closing Apparatus	:	

This is a decision on the petition to revive the abandoned application under 37 CFR 1.137(b), filed January 25, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 in lieu of the fact that petitioner did not pay a petition fee, and stated that the abandonment was due to PTO error.

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

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

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed April 27, 2004, which set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 28, 2004. A Notice of Abandonment was mailed on December 19, 2005.

On petition, petitioner Glenn Lippman argues that he timely filed a response via facsimile transmission on July 19, 2004. In support thereof, petitioner has included a copy of the response, dated July 19, 2004, and signed by inventor Glenn Lippman, but lacking a signature from inventor Gerald Lippman. Also included was a copy of a facsimile transmission report, showing that a two page document was transmitted to facsimile number 703-872-9306 on July 19, 2004.

Petitioner has failed to demonstrate that the copy of the response supplied on petition was filed on July 19, 2004. The response, while "dated" July 19, 2004, does not bear a Certificate of Facsimile Transmission under 37 CFR 1.8. In addition, the copy of the facsimile transmission report fails to establish which two page document was transmitted on July 19, 2004. Lastly, the response, even if demonstrated to have been timely filed on July 19, 2004, would not have been proper. 37 CFR 1.33(b) states:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) **All of the applicants** (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter. Emphasis added.

Papers filed in the instant application, including the instant petition and the response allegedly filed on July 19, 2004, need to be signed by both of the applicants (inventors), Glenn Lippman and Gerald Lippman.

Petitioner may want to consider reviving the application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently

$1500 ($1500, or $750 for a small entity); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. A blank 37 CFR 1.137(b) petition to revive form is enclosed for petitioner's convenience.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
Privacy Act Statement (1 page)

PTO/SB/64 (07-06)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GLENN W LIPPMAN
9106 B SW 22ND STREET
BOCA RATON FL 33428

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Glenn Lippman, Gerald Lippman	:	
Application No. 10/280,443	:	ON PETITION
Filed: October 25, 2002	:	
Title: Semi-Automatic Vial Closing Apparatus	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 29, 2006.

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

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

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed April 27, 2004, which set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 28, 2004. A Notice of Abandonment was mailed on December 19, 2005. Applicant Glenn Lippman filed a petition to revive under 37 CFR 1.137(b) on January 25, 2006. However, the petition was treated as a petition to withdraw the holding of abandonment because applicant

did not submit the petition fee, and because applicant stated the abandonment was due to PTO error. The petition was dismissed in a decision mailed on August 24, 2006.

In the petition filed January 25, 2006, petitioner Glenn Lippman argued that he timely filed a response via facsimile transmission on July 19, 2004. In support thereof, petitioner included a copy of the response, dated July 19, 2004, and signed by inventor Glenn Lippman, but lacking a signature from inventor Gerald Lippman. Also included was a copy of a facsimile transmission report, showing that a two page document was transmitted to facsimile number 703-872-9306 on July 19, 2004.

Petitioner failed to demonstrate that the copy of the response supplied on petition was filed on July 19, 2004. The response, while "dated" July 19, 2004, does not bear a Certificate of Facsimile Transmission under 37 CFR 1.8. In addition, the copy of the facsimile transmission report fails to establish which two page document was transmitted on July 19, 2004. Lastly, the response, even if demonstrated to have been timely filed on July 19, 2004, would not have been proper. 37 CFR 1.33(b) states:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) **All of the applicants** (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter. Emphasis added.

With the instant renewed petition filed September 29, 2006, applicant Glenn Lippman argues that the "findings and resultant decision is preposterous". Applicant argues: (1) that the Examiner, John R. Paradiso, was of the same understanding as applicant Lippman that the application was in proper form; (2). Proof was submitted that the response was timely filed on July 19, 2004; and (3). Proof was submitted that the USPTO "Auto-Reply

Fax" system was neither working nor operational. The decision will now address these three arguments in turn.

It is immaterial that applicant Glenn Lippman was of the "understanding" that everything was completed in proper form. Abandonment takes place by operation of law. Abandonment does not take place by the Office finding the application abandoned or mailing a Notice of Abandonment. When no amendment was received on or before July 27, 2004, the application became abandoned.

Applicant argues that proof was submitted that the response was timely filed on July 19, 2004. However, applicant did not supply this proof in the form of a copy of the response bearing a Certificate of Facsimile Transmission under 37 CFR 1.8. Moreover, even if applicant could supply such proof, as pointed out in the first decision on petition, the response would not have been proper because it was not signed by both applicants for patent.

Applicant did not supply proof that the USPTO Auto-Reply Fax system was neither working or operational. Regardless, such a finding is again immaterial to the abandonment of the application. An auto-reply facsimile transmission is not required to prove timely filing of a response. Applicant merely needed to ensure that his response contained a Certificate of Facsimile Transmission under 37 CFR 1.8.

It is recommended that Petitioner revive the application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $1500 ($1500, or $750 for a small entity); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. A blank 37 CFR 1.137(b) petition to revive form is enclosed for petitioner's convenience. The failure to file a petition to revive under 37 CFR 1.137(b) may be considered to be intentional delay, and found to be an absolute bar to revival.

Lastly, again it is noted that the instant renewed petition is not signed by both of the applicants for patent in accordance with 37 CFR 1.33(b).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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MIN, HSIEH & HACK LLP
8270 GREENSBORO DRIVE
SUITE 630
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
Robert T. Paine, Jr. :
Application No. 10/280,456 : ON PETITION
Filed: October 24, 2002 :
Attorney Docket No. UNM621.US :

This is a decision on the petition filed January 26, 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 September 20, 2005 for failure to timely pay the issue fee on or before September 19, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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

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JUN 23 2008

In re Patent No. 7,091,931
Application No. 10/280,465
Filing Date: October 24, 2002
Issue Date: August 15, 2006
Attorney Docket No. GRANP2.001C6

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed January 14, 2008, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the above-cited application matured into U.S. Patent No. 7,084,838 on August 1, 2006. Petitioner contends, however, that the patent was lost.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was lost. The Office of Data Management is directed to issue duplicate Letters of Patent.

The fee for the instant petition is $400.00. Deposit account 11-1410 will be charged accordingly.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

SPE: E. Robert

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/23/07

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/280,489 Patent No.: 7056321

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

3733
Art Unit

EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER

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1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES CA 90024

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JAN 1 2 2006

OFFICE OF PETITIONS

In re Application of :
Edward Shanbrom :
Application No. 10/280,501 : ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. 25864.05860 :

This is a decision on the petition filed December 21, 2005, under 37 CFR 1.137(a)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 28, 2005 for failure to file a timely response to the non-Final Office Action mailed January 27, 2005. Accordingly, a Notice of Abandonment was mailed October 3, 2005.

Petitioner argues that a change of address was filed November 18, 2004 and that the non-Final Office Action, mailed January 27, 2005, was mailed to the old address and thus not received by petitioners. Petitioner further argues that the Notice of Abandonment was also mailed to the old address but that the Attorney's former firm forwarded it to them one month after it was mailed.

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

---

[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©)).

> 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.[2]

Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

A review of the file does not reveal that the change of address purportedly mailed November 18, 2004 is of record. However, a copy of the post card receipt date stamped by the USPTO on November 22, 2004 does indicate that a change of address was filed, which would have been prior to the mailing of the non-Final Office Action. It is noted therefore that an error on the part of the USPTO caused the office action mailed to not be received by the petitioner. Thus, petitioner's delay in responding to the non-Final Office Action was unavoidable under the standard set out at 37 CFR 1.137(a).

The petition fee in the amount of $250.00 has been charged to deposit account no. 50-2899.

The address has been corrected and this matter is being referred to Technology Center 1616 for appropriate action on the amendment filed December 21, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[2] 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).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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DEPT. 18G
BLDG. 300-482
2070 ROUTE 52
HOPEWELL JUNCTION, NY 12533

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OFFICE OF PETITIONS

In re Application of	:	
Kane et al.	:	DECISION ON APPLICATION
Application No. 10/280,513	:	FOR
Filed: October 24, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.FIS920000407US1	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed August 23, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred twenty-one (121) days to two hundred twenty-four (224) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred forty-three (243) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 14, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 121 days. On August 23, 2005, applicants

timely[1] submitted the instant application for patent term adjustment. Applicants dispute the reduction of 103 days associated with applicant delay in filing a response to the Restriction Requirement mailed August 4, 2004. Applicants state that their response was filed on September 1, 2004, not February 15, 2005, and thus, there was not failure to engage within the meaning of § 1.704(b).

A review of the record confirms that applicants did not fail to engage in reasonable efforts to conclude processing or examination within the meaning of § 1.704(b). The response to the Restriction Requirement is present in the application file. The paper was accepted as timely submitted by facsimile transmission on September 1, 2004. Applicants are correct there was no delay within the meaning of § 1.704(b).

Moreover, given that the paper was received in the Office on September 1, 2004, but the Office did not mail a response until March 30, 2005, there is an additional basis for entry of a period of adjustment. Specifically, pursuant to §§ 1.702(a)(2) and 1.703(a)(2), a period of adjustment of 88 days is entered for the period of Office delay from January 2, 2005, the day after the date that is four months after the date a reply under § 1.111 was filed to March 30, 2005, the date of mailing of an action under 35 U.S.C. 132.

However, a review of the record also reveals that after the response to the election requirement was filed on September 1, 2004, an Information Disclosure Statement (IDS) was filed on November 9, 2004. 37 CFR § 1.704(c)(8), provides that:

> the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

The record does not support a conclusion that the IDS was expressly requested by the examiner. Nor was the IDS accompanied by a § 1.704(d) statement. Accordingly, the PTA should have been reduced pursuant to § 1.704(c)(8) by 69 days, the number of days beginning on the day after the date the

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[1] PALM records indicate that the Issue Fee payment was received on September 14, 2005.

initial reply was filed, September 2, 2004, and ending on the date that the supplemental paper was filed, November 9, 2004 for the filing of the IDS.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 243 days (224 + 88 days of Office delay reduced by 69 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for timely issuance of the patent.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of UPDATED PAIR screen

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MCCARTER & ENGLISH, LLP NEWARK
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK NJ 07102

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AUG 27 2009

OFFICE OF PETITIONS

In re Application of

HAYES, Paul V. et al.
Application No. 10/280,533
Filed: October 25, 2002
Attorney Docket No. **99838-00002**

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 January 05, 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 Michael Friscia on behalf of all attorneys of record who are associated with customer No. 27614. All attorneys/agents associated with the Customer Number 27614 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 Paul Hayes 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: **PAUL V. HAYES**
HUDSON BAY WIRELESS LLC
706 PALISADE AVENUE
UNION CITY NJ 07087

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NORRIS MCLAUGHLIN & MARCUS
P O BOX 1018
SOMERVILLE NJ 08876-1018

In re Application of
MANIS, CONSTANTINE N
Application No. 10/280555
Filed: October 25, 2002

For: POWER LINE COMMUNICATION SYSTEM WITH AUTONOMOUS NETWORK SEGMENTS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 16, 2005.

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

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

Attorneys/agents listed in the Request to withdraw are withdrawn.

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

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-6988

Cc: JAMES REEBER
ARKADOS, INC
948 US HIGHWAY #22 EAST
NORTH PLAINFIELD NJ 07060

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Paper No. 7

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OFFICE OF PETITIONS

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER, CO 80301

In re Application of :
Collier, et al. :
Application No.: 10/280,565 : ON PETITION
Filed: October 25, 2002 :
Attorney Docket No.: 405835 :

This a decision on the petition filed March 11, 2003, filed in response to the "Notice of Missing Parts of Nonprovisional Application"(the "Notice") mailed November 22, 2002 in the above-cited application.

The petition is **dismissed.**

The application was filed on October 25, 2002. On November 22, 2002, the Notice was mailed indicating that a proper oath or declaration was missing and that a surcharge of $130.00 was due consequently; the Notice also indicated that Figure 7 as described in the specification appeared to have been omitted. While the Notice allowed an extendable two month period for filing a proper declaration and remitted the surcharge, the period for filing Figure 7 was a non-extendable two-month period beginning from the mailing date of the Notice. The instant petition was filed on March 11, 2003, along with an Office date-stamped postcard receipt acknowledging, among other things, six (6) sheets of drawings as being received on October 25, 2002. Petitioner also filed an executed declaration and remitted the surcharge and obtained an extension of time within the second month.

The Notice mailed on November 22, 2002, required that a petition exercising options (I) or (II) be filed within two months from the mailing date of the notice and stated specifically that if no petition was filed within that period the Office would construe the non-responsiveness as constructive acceptance by the applicant of the application as deposited in the USPTO. Further, the Notice indicated that the two month period prescribed, relative to the alleged omitted Figure 7, was not extendable under 37 CFR 1.137(a) or (b). In light of the aforementioned, instant petition was untimely.

The petition is, therefore, dismissed.

Although Figure 7 filed March 11, 2003, is noted; it will not be entered at this time. The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 25, 2002. Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the instant petition as a preliminary amendment requesting entry of Figures 7 filed March 11, 2003.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

#6

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Paper No. 6

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of:
Mark Spiegel, et al.
Application No. 10/280,586
Filed: October 24, 2002
For: HEURISTIC DETECTION AND TERMINATION OF FAST SPREADING NETWORK WORM ATTACKS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 7, 2004.

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

The request is **GRANTED.**

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

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

cc: Edward J. Radlo
Sonnenschein Nath & Rosenthal LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

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Paper No. 7

Donald Arnstein
Saraband Wireless Inc.
3915 Old Lee Highway
Fairfax VA 22030

MAIL

JUL 2 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Paul Michael Ebert, et al.
Application No. 10/280,595
Filed: October 25, 2002
For: VECTOR NETWORK ANALYZER APPLIQUE FOR ADAPTIVE COMMUNICATIONS IN WIRELESS NETWORKS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed October 25, 2002 (paper No. 2) under MPEP §708.02 (IV), applicant's age. This decision is also responsive to the supplemental statement filed July 15, 2004 (paper no. 6).

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

The petition and supplemental statement by Mr. Paul Ebert, evidence that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

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

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

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

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

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APR 27 2010

OFFICE OF PETITIONS

In re Application	:
Cox	:
Application No. 10/280,632	: PATENT TERM ADJUSTMENT
Filed: October 25, 2002	:
Dkt. No.: ACS 61275 (3493P)	:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed January 26, 2010. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment. Applicants submit that the correct patent term adjustment to be indicated on the patent is 923 days, not 639 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and on the basis that the applicant delay totals 63 days rather than 75 days.

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

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

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

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The receipt is acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

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

As to the assertion that the period of applicant delay totals 63 days, review of the record reveals an applicant delay of 75 days as reflected in the Determination of Patent Term Adjustment mailed November 23, 2009.

A reduction of four days was properly accorded in accordance with 37 CFR 1.704(b) in connection with the reply filed September 27, 2006. The reduction commenced September 24, 2006 and ended September 27, 2006.

A reduction of eight days was properly accorded in accordance with 37 CFR 1. 704(b) in connection with the reply filed March 20, 2007. The reduction commenced March 13, 2007 and ended March 20, 2007.

A reduction of 63 days was properly accorded in accordance with 37 CFR 1.704(b) in connection with the request for continued examination filed July 7, 2008. The reduction commenced May 6, 2008 and ended July 7, 2008.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of 639 days, as reflected in the Determination of Patent Term Adjustment mailed November 23, 2009.

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-08

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/286644 Patent No.: 6858659

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 Review claims

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

Ennis Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: OK to date, original claim 6 is correct

Randy Gulakowski

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1796
Art Unit

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: F. Michael Farnan	: DECISION ON REQUEST FOR
Patent Number	: 7623753	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/280,651	: 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 **1595** 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. 8

Brian M. Hoffman
FENWICK & WEST L.L.P.
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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Technology Center 2100

In re Application of:
William E. Sobel
Application No. 10/280,663
Filed: October 24, 2002
For: ANTIVIRUS SCANNING IN A HARD-LINKED ENVIRONMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 03, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 03, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Edward J. Radlo
SONNENSCHEIN NATH & ROSENTHAL LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

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ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE NY 11747-2712

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
James Altadonna Jr. :
Application No. 10/280,682 :
Filed: October 25, 2002 :
Attorney Docket No. ALTADONNA-NASAL-2 :

ON PETITION

This is a decision on the petition filed April 4, 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 December 13, 2004 for failure to timely pay the issue fee on or before December 10, 2004. Accordingly, a Notice of Abandonment was mailed January 20, 2005.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 06/02/2010

Applicant	: Simon Peter Beevor	: DECISION ON REQUEST FOR
Patent Number	: 7633518	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/280,689	: 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 **517** 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
Mudhafar Hassan-Ali et al.
Application No. 10/280,700
Filed: October 25, 2002
Attorney Docket No.: 139030

ON PETITION

This is a decision on the petition filed November 30, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

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

This application became abandoned October 23, 2007 for failure to timely pay the issue fee on or before October 22, 2007. Accordingly, a Notice of Abandonment was mailed November 13, 2007.

The issue fee, publication fee and petition fee have all been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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#10

PITNEY, HARDIN, KIPP & SZUCH
685 THIRD AVENUE
NEW YORK, NY 10017

In re Application of	:
Helmut Grumann et al	:
Serial No.: 10/280,704	: PETITION DECISION
Filed: October 25, 2002	:
Attorney Docket No.: 2727-158	:

This is in response to the petition under 37 CFR 1.181, filed May 25, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed a non-Final Office action to applicants on September 26, 2003, setting a three month shortened statutory period for reply. On May 20, 2004, the Office mailed a Notice of Abandonment to applicants for failure to file a reply to the Final Office action. Applicants state that a reply was filed on December 11, 2003, and provide a copy thereof with a properly executed Certificate of Mailing. The original reply has not been located and the copy provided with the petition will be utilized in lieu thereof. In view of the timely reply, the Notice of Abandonment was mailed in error and is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

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

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

Bruce M. Kisliuk
Director, Technology Center 1600

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RONALD R SANTUCCI
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK NY 10151

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OFFICE OF PETITIONS

In re Application of	:	
Grumann, et al.	:	
Application No. 10/280,704	:	ON PETITION
Filed: October 25, 2002	:	
Attorney Docket No. 930008-2119.1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 21, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 15, 2006. This Office action set an extendable period for reply of one (1) month. No reply having been received, the application became abandoned on June 16, 2006. A Notice of Abandonment was mailed on December 19, 2006.

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 Amendment.

The matter is being forwarded to Group Art Unit 1621 for consideration of the Amendment filed February 21, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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WASHINGTON, D.C. 20231
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Paper No. 10

Kate H. Murashige
Morrison & Foerster LLP
Suite 500
3811 Valley Centre Drive
San Diego, CA 92130

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JUN 27 2003

OFFICE OF PETITIONS

In re Application of :
Challita-Eid, et al. :
Application No. 10/280,711 : ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. 511582002501 :

This is a decision on the petition filed February 10, 2003 (certificate of mailing dated February 3, 2003), requesting, in effect, partial withdrawal of a Notice mailed December 3, 2002.

On October 25, 2002, the application was deposited.

On December 3, 2002, the Office of Initial Patent Examination mailed a Notice stating, in part, that Figures 5-28A and B as described in the specification were omitted and that a filing date had been accorded.

Petitioner also admits that Figures 5-28 A and B as described in the specification were not submitted with original application papers, but that the entire disclosure of the prior application 10/024,652 was incorporated by reference into the above-cited application.

The petition is **dismissed**.

The notice of December 3, 2002, permitted the applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the sate of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (an the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items 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.

In this case, petitioner neither asserts that the missing drawings were actually deposited in the PTO on October 25, 2002, with the other application papers no requests a later filing date.

Alteratively, applicants seek to add the figures to the present application on the basis that the figures are not new matter. No petition is necessary for that purpose, however. Additional figures may be entered by

the primary examiner without a petition so long as the pages contain no matter. See MPEP 608.02(a).

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 application are "hereby incorporated 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 applications(s) will permit an applicant to amend the divisional application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c). Such a statement was found in the application transmittal sheet filed with the original application papers.

If applicant's desire that Figures 5-28A and B be added to the application, the appropriate procedure is by way of amendment requesting entry of the figures. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is dismissed.

The petition fee will not be refunded because the petition was not necessitated by any error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 25, 2002, using the application papers filed on October 25, 2002.

Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of
Komar et al.
Application No. 10/280,716
Filed: October 28, 2002
For: ANTI-IL-6 ANTIBODIES,
COMPOSITIONS, METHODS AND USES

: Decision on Petition

The above-identified application has been forwarded to the undersigned for correction of the filing receipt and publication status, based on a telephone conversation with the Examiner and Applicants representative on May 10, 2006. This is being treated as a request to rescind the "Nonpublication Request" in the Office's electronic records.

On October 26, 2002, the above-identified application was filed with a Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i), PTO/SB35 (11-00). The Nonpublication Request identified the signing party as Kenneth J. Dow, however the paper was not signed.

Since, the application claims the benefit of Provisional Application No. 60/332,743 filed on November 14, 2001, the above-identified application would have been eligible for publication on May 14, 2003.

On January 31, 2003, the Filing Receipt (copy enclosed) mailed by the Office acknowledged the "Nonpublication Request." The Filing Receipt did not indicate a projected publication date, because the "Nonpublication Request" was acknowledged.

35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested nonpublication with the required certification. The statute also provides that if an applicant who has submitted a nonpublication request subsequently files an application directed to the invention disclosed in the application in which the nonpublication request was submitted in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant must notify the Office of such filing within forty-five days after the date of the filing of the foreign or international application. The failure to notify the Office of the filing of such foreign or international application shall result in abandonment of the application in which the nonpublication request was submitted.

The Office accepted Applicant's nonpublication request and gave Applicant notice of the acceptance of the nonpublication request on January 31, 2003 on the Filing Receipt. Since a proper Nonpublication Request under 35 U.S.C. 122(b) was not received on filing, as the paper was unsigned, the application will be treated as if the Nonpublication Request had not been made.

In the future, Applicant's representative should carefully review the Filing Receipt and timely advise the Office of any errors. A delay in publication, as caused by the delay in notifying the Office of the erroneous reference to a nonpublication request, could cause applicants to lose provisional rights under 35 U.S.C. 154(d).

The application will be scheduled for publication in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-7709.

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

Enclosure: Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/280,716	10/26/2002	1616	2338	CEN 322	12	65	3

CONFIRMATION NO. 4834

UPDATED FILING RECEIPT

OC000000009460254

000027777
AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Date Mailed: 01/31/2003

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

Applicant(s)

Jill Giles-Komar, Downingtown, PA;
David Knight, Berwyn, PA;
David Peritt, Bala Cynwyd, PA;
Mohit Trikha, Paoli, PA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/332,743 11/14/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/02/2002

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Anti-IL-6 antibodies, compositions, methods and uses

Preliminary Class
424

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/280,716	10/26/2002	1616	2338	CEN 322	12	65	3

CONFIRMATION NO. 4834

UPDATED FILING RECEIPT

OC000000009460254

000027777
AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Date Mailed: 01/31/2003

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Applicant(s)

Jill Giles-Komar, Downingtown, PA;
David Knight, Berwyn, PA;
David Peritt, Bala Cynwyd, PA;
Mohit Trikha, Paoli, PA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/332,743 11/14/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/02/2002

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Anti-IL-6 antibodies, compositions, methods and uses

Preliminary Class
424

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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OFFICE OF PETITIONS

DUNLAP CODDING & ROGERS PC
PO BOX 16370
OKLAHOMA CITY OK 73113

In re Application of	:	
Fitzpatrick, et al.	:	
Application No. 10/280,724	:	ON PETITION
Filed: October 24, 2002	:	
Attorney Docket No. 2635.004	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 30, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed November 26, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on February 27, 2009. The Office mailed a Notice of Abandonment on June 10, 2009.

With the instant petition, applicants 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 3686 for consideration of the RCE, filed June 30, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/2/09

TO SPE OF : ART UNIT 3742 Hoang Tu Spe

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/280724 Patent No.: 6821293

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

TU BA HOANG
SUPERVISORY PATENT EXAMINER

SPE

3742
Art Unit

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ALEXANDRIA, VA 22313-1450
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JACK W. ROMANO/MEDINDICA-PAK, INC
13301 SE 79TH PLACE #A110
NEWCASTLE, WA 98059

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Jack W. Romano :
Application No. 10/280,731 :
Filed: October 26, 2002 :
Attorney Docket No. None :

ON PETITION

This is a decision in response to the petition, filed April 14, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed August 12, 2004. A Notice of Abandonment was mailed on February 18, 2005. In response, on April 14, 2005, the present petition and an amendment were filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 3752 for consideration of the amendment filed April 14, 2005.

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

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

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CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91109-7068

In re Application of	:	
James Uberti	:	
Application No. 10/280,732	:	DECISION ON PETITION
Filed: October 24, 2002	:	TO WITHDRAW
Attorney Docket No. 49031/FLC/U345	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 27, 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, **applicant has been advised about this withdrawal by e-mail**, do not meet any 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 Terri Williams at 571-272- 2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **James Uberti**
Touchcredit Financial Services, Inc.
660 Fourth Street, #101
San Francisco, CA 94107

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United States Patent and Trademark Office
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Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:	
James Uberti	:	
Application No. 10/280,732	:	DECISION ON PETITION
Filed: October 24, 2002	:	TO WITHDRAW
Attorney Docket No. 49031/FLC/U345	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 4, 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 Daniel R. Kimbell on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

All future correspondence will be directed to the first named inventor James Uberti at the address indicated below.
There is no outstanding Office action at this time.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **James Uberti**
16 Outrigger Street
Suite 302
Marina del Rey, CA 90292

cc: **James Uberti**
Touchcredit Financial Services, Inc.
660 Fourth Street, #101
San Francisco, CA 94107

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/280,732	10/24/2002	James Uberti	49031/FLC/U345

CONFIRMATION NO. 4649

OC000000024691542

CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

Date Mailed: 07/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/04/2006.

- 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.

Terri Williams

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

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL A. MENDONSA
BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Scheinert et al.	:	
Application No. 10/280,733	:	
Filed: October 25, 2002	:	
Attorney Docket No. 42P22421	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 2, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue/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 Chase
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MAR -8 2004

In re Application of	:	
John A. Noelle et al.	:	
Serial No. 10/280,736	:	DECISION ON PETITION
Filed: October 25, 2002	:	TO MAKE SPECIAL
For: IMPROVED CONTROLLER FOR THE	:	
ELECTRIC MOTOR OF A HIGH-SPEED	:	
SPINDLE ATTACHMENT USED WITH	:	
COMPUTER-CONTROLLED MILLING	:	
MACHINES	:	

Applicant's petition, filed October 25, 2002, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Dorothy S. Morse
515 Park Drive, N.W.
Bradenton, FL 34209-1847

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN L.L.P.
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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AUG 0 1 2008

In re Application of	:	
Sunil K. Jain	:	
Application No. 10/280,741	:	ON PETITION
Filed: October 25, 2002	:	
Attorney Docket No. 42P14517	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 27, 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 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 not obtained. Accordingly, the date of abandonment of this application is July 28, 2007. A Notice of Abandonment was mailed June 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2829 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.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 5

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APR 1 4 2003

OFFICE OF PETITIONS

WILLIAM D. PAGDIN
131 HOLLAND ROAD
WANTAGE, NJ 07461-2840

In re Application of
Pagdin et al.
Application No.10/280,748
Filed: October 26, 2002
Title of Invention: DATA ANALYSIS AND SECURITY SYSTEM

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on April 8, 2003, requesting that the above-identified application be accorded a filing date of October 26, 2002, rather than the presently accorded filing date of October 24, 2002.

Petitioner alleges that the application was deposited in Express Mail service on October 26, 2002. In support, petitioner supplied a copy of Express Mail receipt No. ET010370907US. A review of the USPTO's the United States Postal Service Express Mail Information Database shows the Express Mail package was accepted by the United States Postal Service on October 26, 2002.

In view of the above, the petition is **Granted**. No petition fee is required and none has been charged.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **October 26, 2002** and issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 01 2003

OFFICE OF PETITIONS

JACKSON WALKER L.L.P.
Suite 2100
112 E. Pecan Street
San Antonio, TX 78205

In re Application of
Bess, et al.
Application No. 10/280,764
Filed: October 25, 2002
Atty. Dkt. No.: P-108529.3 (UTI)
For: SYSTEM AND METHOD OF PROVIDING ELECTRONIC ACCESS TO ONE OR MORE DOCUMENTS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 3, 2003 (Certificate of Mailing date of February 27, 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, on November 27, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge.

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

The petition lacks requirement (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64 has not been presented. The declaration presented with the instant petition is not acceptable as it fails to set forth the entire inventive entity. Specifically, the declaration submitted, while executed by the available inventors, fails to identify the non-signing inventor by name, residence, mailing address, and citizenship.

Any renewed petition should be accompanied by an executed oath or declaration in full compliance with the requirements of 37 CFR 1.63.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

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JUN 1 6 2003

OFFICE OF PETITIONS

JACKSON WALKER L.L.P.
Suite 2100
112 E. Pecan Street
San Antonio, TX 78205

In re Application of
Bess, et al.
Application No. 10/280,764
Filed: October 25, 2002
Atty. Dkt. No.: P-108529.3 (UTI)
For: SYSTEM AND METHOD OF PROVIDING ELECTRONIC ACCESS TO ONE OR MORE DOCUMENTS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 2, 2003 (Certificate of Mailing date of February 27, 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, on November 27, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47(a) was filed February 3, 2003 and dismissed April 1, 2003.

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

The petition lacks requirement (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64 has not been presented. Petitioner has improperly attempted to combine two different declarations. Petitioner is required, *inter alia*, under 37 CFR 1.63 to present one declaration which identifies the entire inventive entity by name and citizenship, including any non-signing inventor. This declaration is required to be executed by all available inventors. Petitioner is also required to provide by way of oath,

declaration, or application data sheet the mailing address and residence of each inventor.

Any renewed petition should be accompanied by an executed oath or declaration in full compliance with the requirements of 37 CFR 1.63.

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 1 5 2003

OFFICE OF PETITIONS

Paper No. 10

JACKSON WALKER L.L.P.
Suite 2100
112 E. Pecan Street
San Antonio, TX 78205

In re Application of
Bess, et al.
Application No. 10/280,764
Filed: October 25, 2002
Atty. Dkt. No.: P-108529.3 (UTI)
For: SYSTEM AND METHOD OF PROVIDING ELECTRONIC ACCESS TO ONE OR MORE DOCUMENTS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 6, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor John Robinson has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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NOV - 2 2004

The Procter & Gamble Company
Intellectual Property Division
Winton Hill Technical Center - Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

MAILED
NOV - 2 2004
OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Kevin Benson McNeil et al.
Application No. 10/280,782
Filed: October 25, 2002
For: METHOD FOR UNWINDING ROLLS OF WEB MATERIAL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on October 5, 2004 in the United States Patent and Trademark Office.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated February 12, 2004 which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the Response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb: 10/25/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 22 2006
OFFICE OF PETITIONS

Foley & Lardner
3000 K. Street, N.W.
Suite 500
Washington, DC 20007

In re Patent No. 7,061,061 :
Issued: June 13, 2006 : LETTER REGARDING PTA
Application No. 10/280,795 :
Filed: October 24, 2002 :
Atty. Dkt. No.: 018564-000621US :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed June 6, 2006. The Office thanks applicants for their good faith and candor in bringing this to our attention.

Patentees indicate that the adjustment of 155 days accorded the instant patent disagrees with patentees' own calculation of adjustment. Patentees, thus, request verification by the Office of the calculation of adjustment.

A careful review of the application history does not reveal an error in the calculation. The adjustment of 267 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) was reduced 112 days in accordance with 37 CFR 1.705(c)(10) in connection with the application data sheet submitted February 22, 2006, yielding an adjustment of 155 days, as indicated on the patent.

If patentees remain of the belief that an error exists in the calculation of patent term adjustment, a response to this letter should be forthcoming, setting forth with specificity the exact nature of the error in calculation.

As this letter was submitted as an advisement to the Office of an error in patentees' favor, no fee is due in connection with this matter.

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

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

Day : Wednesday

PALM INTRANET

Date: 8/2/2006
Time: 15:54:13

PTA Calculations for Application: 10/280795			
Application Filing Date:	10/24/2002	PTO Delay (PTO):	267
Issue Date of Patent:	06/13/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	112
Post-Issue Petitions:	0	Total PTA (days):	155
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54.5	05/24/2006	PTA 36 MONTHS			
54	06/13/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
53	05/04/2006	EXPORT TO FINAL DATA CAPTURE			
52	05/01/2006	DISPATCH TO FDC			
51	04/26/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
50	02/22/2006	MISCELLANEOUS INCOMING LETTER		112	
49	04/20/2006	ISSUE FEE PAYMENT VERIFIED			
48	04/21/2006	FINISHED INITIAL DATA CAPTURE			
47	04/20/2006	ISSUE FEE PAYMENT RECEIVED			
46	01/27/2006	EXPORT TO INITIAL DATA CAPTURE			
45	01/24/2006	MAIL NOTICE OF ALLOWANCE			
44	01/22/2006	ISSUE REVISION COMPLETED			
43	01/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	01/22/2006	NOTICE OF ALLOWABILITY			
41	07/29/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	10/24/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	01/06/2006	DATE FORWARDED TO EXAMINER			
38	12/21/2005	AMENDMENT AFTER FINAL REJECTION			
37	10/19/2005	MAIL FINAL REJECTION (PTOL - 326)			
36	10/17/2005	FINAL REJECTION			
35	07/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	33
34	08/05/2005	DATE FORWARDED TO EXAMINER			

33	07/29/2005	RESPONSE AFTER NON-FINAL ACTION			
32	06/03/2005	MAIL NON-FINAL REJECTION			
31	05/31/2005	NON-FINAL REJECTION			
30	03/23/2005	DATE FORWARDED TO EXAMINER			
29	03/16/2005	RESPONSE AFTER NON-FINAL ACTION			
28	03/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
27	01/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
26	12/28/2004	MAIL NON-FINAL REJECTION			
25	12/27/2004	NON-FINAL REJECTION			
24	10/20/2004	CLAIMS PTO			
23	10/20/2004	DATE FORWARDED TO EXAMINER			
22	10/05/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
21	10/05/2004	WORKFLOW INCOMING AMENDMENT IFW			
20	09/16/2004	MAIL RESTRICTION REQUIREMENT	267		-1
19	09/14/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
18	10/24/2002	REFERENCE CAPTURE ON IDS			
17	04/05/2004	CORRESPONDENCE ADDRESS CHANGE			
16	04/05/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
15	04/05/2004	RECORD PETITION DECISION OF GRANTED RELATED TO ATTORNEY			
14	03/22/2004	PETITION ENTERED			
13	07/24/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	07/24/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	07/01/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	04/15/2003	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
9	10/24/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	10/24/2002	PRELIMINARY AMENDMENT			
7	04/10/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	12/17/2002	APPLICATION DISPATCHED FROM OIPE			
5	12/16/2002	APPLICATION IS NOW COMPLETE			
3	11/19/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
2	11/02/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			

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STEVENS LAW GROUP
1754 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE, CA 95110

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of :
Paul Lin, et al. :
Application No. 10/280,796 : ON PETITION
Filed: October 25, 2002 :
Attorney Docket No. AATHX-00400 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 3, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 4, 2007.

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

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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.

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

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Copy of Advisory Action

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
10/280,796	10/25/2002	Paul Lin	ATHX-00400

CONFIRMATION NO. 2518

POA ACCEPTANCE LETTER

34051
Stevens Law Group
1754 Technology Drive
Suite #226
San Jose, CA 95110

OC000000030437317

Date Mailed: 06/12/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

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

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/280,796	Applicant(s) LIN ET AL.	
	Examiner SHEWAYE GELAGAY	Art Unit 2137	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: The amended claims and the newly submitted claims need further search and/or consideration.

Continuation of 11. does NOT place the application in condition for allowance because: The amended claims and the newly submitted claims need further search and/or consideration.

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SUITE #226
SAN JOSE, CA 95110

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OCT 1 4 2008

OFFICE OF PETITIONS

In re Application of :
Paul Lin, et al. :
Application No. 10/280,796 :
Filed: October 25, 2002 :
Attorney Docket No. AATHX-00400 :

ON PETITION

This is a decision on the letter filed June 27, 2008, which is being treated as a renewed petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

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 January 3, 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2137 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/12/05

TO SPE OF : ART UNIT **1636**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/280802 6852339

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 **Art Unit** 1636

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Te-San Liu
P. O. Box 55-846
Taipei 104 TW TAIWAN

COPY MAILED

OCT 0 3 2005

OFFICE OF PETITIONS

In re Patent No. 6,745,777
Issue Date: October 24, 2002
Application No. 10/280,845
Filed: October 24, 2002

Title of Invention: Tobacco Filter Means Superimposedly Rechargeably Filled with Disposable Filter Units

ON PETITION

This is a decision on the petition, filed on June 8, 2005, requesting the issuance of a duplicate Letters Patent for 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. The reconsideration request should include a cover letter entitled "Renewed Petition". This is **not** final agency action within the meaning of 5 U.S.C. §704.

Since it is the Patent and Trademark Office's practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this patent are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the Patent and Trademark Office on or about June 8, 2004, but fail to disclose receipt of the Letters Patent mailed on that date should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required (i.e. docket report). [1]

---

[1] Petitioner should refer to MPEP 711.03 (c) Petition to Withdraw Holding of Abandonment Based On Failure to Receive Office Action the standard established is similar to the standard required to obtain duplicate Letters Patent based upon non-receipt.

Where applicant is pro se, applicant should demonstrate what system is in place upon receipt of communication from the USPTO. If applicant retains documents in a central location, makes use of a computer program or calendar such information as well as any accompanying evidence should be provided on renewed petition. A pro se applicant must state that the file was searched and that the communication in question has not been located. The Office is looking for applicant to make a showing that the communication was not lost after receipt.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Te-San Liu
P. O. Box 55-846
Taipei 104 TW TAIWAN
AIRMAIL

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JAN 3 1 2006

OFFICE OF PETITIONS

In re Patent No. 6,745,777 :
Issue Date: June 8, 2004 :
Application No. 10/280,845 : ON PETITION
Filed: October 24, 2002 :
Title of Invention: Tobacco Filter Means Superimposedly Rechargeably Filled with Disposable Filter Units

This is a decision on the renewed petition, filed on November 9, 2005, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **Granted**.

A copy of this decision is being forwarded to the Office of Patent Publication for issuance of a duplicate letters patent for patent 6,745,777 to Patentee:

Te-San Liu
P. O. Box 55-846
Taipei 104 TW TAIWAN
AIRMAIL

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: **Kimberly Terrell, South Tower, 8th Floor**
Room C-41
Fax - 571-273-9740
Phone - (703) 308-9250 x 147

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

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

Mail Date: 04/21/2010

Applicant	: Mark J. Levine	: DECISION ON REQUEST FOR
Patent Number	: 7578317	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/280,865	: 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 **196** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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JUN 1 6 2004

OFFICE OF PETITIONS

In re Application of
Tosey, Joseph Peter Robert
Application No. 10/280,878
Filed: October 25, 2002
Attorney Docket No. 034300-000368

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 5, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional 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**.

As stated in a telephone conversation with the petitioner on June 10, 2004, the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 23, 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) was rescinded on December 23, 2003. The above-identified application published on April 29, 2004.

Petitioner requests waiver of the petition fee due to incorrect information provided by employees of the USPTO during various telephone conversations. Petitioner is reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice or statements by Office employees are not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). Accordingly, the petition fee will not be waived.

This application is being forwarded to Technology Center Art Unit 2155 for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SQUIRE, SANDERS & DEMPSEY, LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCICO, CA 94111

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Ronald M. Perkes	:	
Application No. 10/280,880	:	DECISION ON PETITION
Filed: October 25, 2002	:	TO WITHDRAW
Attorney Docket No. 59593.00003	:	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 26, 2007.

The request is **NOT APPROVED**.

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

The 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, "we have been unable to contact the client, the inventor confirms the client no longer exists", does not meet any of the conditions set forth in 37 CFR 10.40.

Furthermore what steps have you taken to contact the assignee? Did you request a return receipt for any communications mailed to the client? What evidence has the applicant provided you with to confirm that the company is no longer in existence? The application cannot be transferred back nor can we send any communications to the applicant because our records

indicate that he no longer holds any rights to the application. If the inventor still has rights, you must provide proof of ownership or provide proof of the assignment that the rights have been transferred back to the inventor. In order to grant withdrawal of this petition, the petitioner is must provide a valid address for the assignee or the client.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: LUMENATI, INC.
2591 KERNER BLVD.
SAN RAFAEL, CA 94901

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

SQUIRE, SANDERS & DEMPSEY LLP
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111

In re Application of	:	
Ronald M. Perkes	:	
Application No. 10/280,880	:	DECISION ON PETITION
Filed: October 25, 2002	:	TO WITHDRAW
Attorney Docket No. 59593.00003	:	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 1, 2007.

The request is **APPROVED**.

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

The request was signed by Cameron K. Kerrigan on behalf of all attorneys of record who are associated with this application.

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

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

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

There is an outstanding Office action mailed October 4, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RONALD PERKES
1016 SUTTER STREET
VALLIEJO, CA 94590

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
10/280,880	10/25/2002	Ronald M. Perkes	59593.00003

CONFIRMATION NO. 3729

POWER OF ATTORNEY NOTICE

44955
SQUIRE, SANDERS & DEMPSEY L.L.P.
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111

OC000000028086447

Date Mailed: 02/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/01/2007.

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

/amwise/

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

United States Patent and Trademark Office

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

Paper No. 5

CATHY L PETERSON, ESQ
DALY, CROWLEY & MOFFORD, LLP
275 TURNPIKE STREET
SUITE 101
CANTON MA 02021-2354

COPY MAILED

MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of Hai Chi Nguy, Michael Mallary, Adam Torabi and Bruce Lairson Application No. 10/280,881 Filed: October 25, 2002 Title: CONCAVE TRAILING EDGE WRITE POLE FOR PERPENDICULAR RECORDING	DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the "Petition under 37 CFR §1.47(a)," filed October 25, 2002.

Receipt of the associate power of attorney and change of correspondence address filed March 10, 2003 is acknowledged and made of record.

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 25, 2002, with a first declaration executed by inventor Nguy and solely naming inventor Nguy; and a second declaration executed by inventors Mallary and Torabi and solely naming inventors Mallary and Torabi; and the instant petition under 1.47(a). Applicants assert that status under §1.47(a) is proper because inventor Lairson, could not be reached for signature after diligent effort, including numerous attempts at contact by mail and by telephone.

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

petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1) and (2).

As to requirement (1), petitioner's statement that inventor Lairson could not be found after diligent effort is not supported. The petition does not include a statement detailing the attempts made to reach or find inventor Lairson. The petition includes a statement of the last known address of inventor Lairson. However, the petition does not include evidence of unsuccessful mailings (i.e., copies of envelopes marked "returned to sender address unknown"). In addition, no proof has been submitted that Rule 47 applicants attempted to determine inventor Lairson's forwarding address from the postal service or through public records, and to contact inventor Lairson at that address. See MPEP 409.03(d).

If further attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 CFR § 1.47 that the inventor cannot be reached. Details of the efforts to locate non-signing inventor Lairson should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicant should submit documentary evidence such as the results of an E-mail or Internet search, and copies of any returned mail.

Of course, if inventor Lairson is located, then a showing of presentation to him of the entire application package, including specification, claims and drawings, and his subsequent refusal is required for status under § 1.47(a).

As to requirement (2), the declarations submitted are not acceptable. Pursuant to 37 CFR § 1.63, an acceptable declaration must identify all inventors by name, country of citizenship and mailing address or residence. Petitioner has submitted two declarations. The first names Hai Chi Nguy as the inventive entity. The second names Michael Mallary and Adam Torabi as the inventive entity. Neither names Bruce Lairson as a joint inventor. These declarations in combination may not be considered an acceptable declaration. Although applicants may submit several declarations each signed by a different combination of inventors, each declaration must correctly identify the inventive entity.

Furthermore, 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." Thus, in addition to other requirements of law (35 U.S.C. 111(a) and 115), in an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a):

(A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP §602, §605.01, and §1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as

required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.

(Emphasis added).

As the declarations submitted do not include a signature block for inventor Lairson, they cannot be considered properly executed by the available joint inventors on behalf of themselves and on behalf of non-signing inventor Lairson.

On renewed petition, rule 47 application must provide adequate proof of the unavailability of joint inventor Lairson to join in the application, and must submit an acceptable declaration.

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

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

or effective with any response mailed on or after May 1, 2003

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

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[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

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

Paper No. 9

CATHY L PETERSON, ESQ
DALY, CROWLEY & MOFFORD, LLP
275 TURNPIKE STREET
SUITE 101
CANTON, MA 02021-2354

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JUL 2 2 2003

OFFICE OF PETITIONS

In re Application of Hai Chi Nguy, Michael Mallary, Adam Torabi and Bruce Lairson Application No. 10/280,881 Filed: October 25, 2002 Title: CONCAVE TRAILING EDGE WRITE POLE FOR PERPENDICULAR RECORDING	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 C.F.R. § 1.47(a) DISMISSED AS MOOT

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)," filed July 3, 2003. This renewed petition is considered in light of the declaration for patent filed July 16, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on October 25, 2002, with a petition under § 1.47 requesting acceptance of a declaration that was not executed by all of the joint inventors. By decision mailed March 31, 2003, the petition was dismissed because it did not include adequate proof of the unavailability of non-signing inventor Lairson, and the declarations submitted did not each identify all of the joint inventors.

On instant renewed petition, filed July 3, 2003, applicants submitted three separate declarations signed, in combination, by all of the joint inventors, including previously non-signing joint inventor Lairson. This is a proper type of reply to the decision refusing status under § 1.47(a). The declarations executed by inventors Nguy, Mallary, Torabi and Lairson were reviewed and found in compliance with § 1.63. However, the declaration executed by inventor Lairson was found not acceptable because it included non-dated/non-initialed changes to his address information. See 37 CFR 1.52(c). In response to a telephone request, on July 16, 2003, attorney for applicants submitted a declaration for patent executed by inventor Lairson, with changes to his address information dated and initialed. This declaration is in compliance with § 1.63.

In view of the joinder of inventor Lairson, further consideration under 37 CFR 1.47(a) is not necessary and the petition is

considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application file is being forwarded to Technology Center 2651 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

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

Paper No. 7

LESLIE GLADSTONE RESTAINO, ESQ.
BROWN RAYSMAN MILLSTEIN FELDER & STEINER, LLP
163 MADISON AVENUE
P.O. BOX 1989
MORRISTOWN, NJ 07962-1989

COPY MAILED

MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of
Akutsu et al.
Application No. 10/280,898
Filed: October 25, 2002
Attorney Docket No. 5382-6

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." .This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 27, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the above-identified application became abandoned on January 28, 2003. A Notice of Abandonment was mailed on February 4, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition

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

under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item (1). Petitioner stated in the instant petition submitted on March 3, 2004, that the an executed declaration and power of attorney was enclosed. However, after a review of the application file, the document could not be located. In order to revive the above-identified application, petitioner must supply the document.

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 $1005.00 extension of time fee submitted with the petition on March 3, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

---

[2] See MPEP 711.03(c)(III)(C) and (D).

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Paper No. 10

LESLIE GLADSTONE RESTAINO, ESQ.
BROWN RAYSMAN MILLSTEIN FELDER & STEINER, LLP
163 MADISON AVENUE
P.O. BOX 1989
MORRISTOWN, NJ 07962-1989

COPY MAILED

APR 2 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Akutsu et al.	:	
Application No. 10/280,898	:	ON PETITION
Filed: October 25, 2002	:	
Attorney Docket No. 5382-6	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed April 19, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 27, 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) was timely obtained. Accordingly, the above-identified application became abandoned on January 28, 2003. A Notice of Abandonment was mailed on February 4, 2004.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DR. BENJAMIN ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Wang	:	
Application No. 10/280,915	:	DECISION GRANTING
Filed: October 24, 2002	:	PETITION
Attorney Docket No. D6578CIP/C	:	
For: MULTIVALENT VACCINATION	:	
USING RECOMBINANT ADENOVIRUS		

This is a decision on the petition under 37 CFR 1.182, filed July 22, 2004, requesting that the above-identified application be accorded a filing date of October 24, 2002, instead of the presently accorded filing date of October 24, 2003.

The petition under 37 CFR 1.182 is **GRANTED**.

The application was deposited on October 24, 2002. On December 6, 2002, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of October 24, 2002 and informing petitioners that Figures 3, 52a, and 56b of the specification appeared to have been omitted.

On February 5, 2003, petitioner filed a preliminary amendment amending the specification to delete references to Figures 3, 52a, and 56b and amending the figure identifiers in the specification and drawings for Figures 52b and 56a to Figures 52 and 56, respectively.

An Updated Filing Receipt was mailed on August 15, 2003. The Update Filing Receipt states that the filing date of the above-identified application is February 5, 2003.

In response to the updated filing receipt, petitioner filed a Request for Corrected Updated Filing Receipt on August 19, 2003. The Office mailed a second updated filing receipt on October 28, 2003 that listed the filing date for the application as October 24, 2003.

Petitioner attempted to correct the filing date to October 24, 2002 by filing a Second Request for Corrected Filing Receipt on May 27, 2004. The Office denied the request on June 23, 2004.

Petitioner filed the instant petition on July 22, 2004, requesting yet again that the Office reinstate the October 24, 2002 filing date for the above-identified application.

The mailing of a "Notice of Omitted Items" permits an applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items 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 items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items 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)). Failure to select option (1) or (2) above is considered a constructive acceptance of the application as filed.

In the instant case, petitioner did not select option (1) or (2). Instead, on February 5, 2003 petitioner filed a preliminary amendment deleting references to the omitted figures. Petitioner clearly chose to accept the application as filed. The filing date should not have been changed from October 24, 2002 to February 5, 2003. It appears that the subsequent October 28, 2003 "correction" of the filing date to October 24, 2003 was a typographical error, as no paper was filed on October 24, 2003.

Both Updated Filing Receipts were incorrect. The application is entitled to a filing date of October 24, 2002. The petition is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of **October 24, 2002** and the mailing of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ADVANCED MEDICAL OPTICS, INC.
1700 E. ST. ANDREW PLACE
SANTA ANA CA 92705

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APR 23 2008

OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of
WOODS, Randall
Application No. 10/280,918
Filed: October 25, 2002
Attorney Docket No. **32311**

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 3, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. David Weber appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent that particular party on whose behalf he acts.

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

This application is being referred to Technology Center AU 3738 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

10/280939

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-26-05

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 6847550

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Check claims

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

Do not enter. Neither claim 18 nor column 6 line 11 in USP 6,847,550 recite "hose fitting line vent fitting" so this correction cannot be made and appears misdirected. Not approved.

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

6/29/07

SPE

2824

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

10/280939

PTO/SB/44 (04-04)
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. : **6,847,550**

DATED : **April 5, 2005**

INVENTOR(S) : **Steven C. Brooker**

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

Claim 18 was misprinted and should read as follows:

Column 6, line 11, "hose fitting line vent fitting" should read --hose fitting--.

Do not enter/not approved.
4/29/07

MAILING ADDRESS OF SENDER:
GOODRICH CORPORATION
Four Coliseum Centre
2730 West Tyvola Road
Charlotte, NC 28217

PATENT NO. 6,847,550

No. of additional copies

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 competed application for 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.**

OCT 14 2005

UNITED STATES 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 : January 24, 2008

Patent No. : 6,847,550
Patent Issued : April 5,2005
Docket No. : 11527.00

Re: Request for Certificate of Correction

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

The alleged error(s) Do not enter.Neither claim 18 nor column 6 line 11 in USP 6,847,,550 recite " hose fitting line vent fitting" so this correction cannot be made and appears misdirected. the patent is printed in accordance with the record In view of the foregoing, your request, in this matter(s), is hereby denied.

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

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

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 308-9390 ext.125 (703) 303-8309 (Receptionist)

UNITED STATES PATENT AND TRADEMARK OFFICE

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3-13-07

gm

In re application of	:	
Mielnik et al.	:	DECISION
Serial No. 10/280,950	:	GRANTING
Filed: October 25, 2002	:	PETITION
For: Decontamination of Critical Mail	:	

This is a decision on the PETITION UNDER 37 CFR 1.181(a) AND MPEP 608.04(c), filed on February 23, 2007.

In an amendment dated March 3, 2006, applicant sought to amend page 9, line 31 of the specification to refer to "dirty side 16" instead of "dirty side 20." In the action dated April 10, 2006, the examiner held this amendment to be new matter under 35 USC 132(a). Applicant requested reconsideration on April 18, 2006, but the examiner repeated the holding of new matter on October 27, 2006.

The instant petition was filed on February 23, 2007 and is before the Director of Technology Center 1700 for consideration. While not filed within two months of the action complained of (37 CFR 1.181(f)), the petition will nevertheless be decided on its merits.

The petition requests that the examiner be instructed to enter the amendment changing "20" to "16" at page 9, line 31 of the specification.

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

DECISION

The specification as originally filed consistently refers to "dirty side 16" (page 5, lines 5, 12, 14; page 10, line 16, etc.) and "barrier 20" (page 5, line 13, etc.) or "wall 20" (page 8, line 2). The exception was page 9, line 31 of the specification, which originally read "dirty side 20." Applicant seeks to change this line to read "dirty side 16," consistent with the rest of the specification.

It is entirely clear that the change to the specification requested by applicant is merely the correction of an obvious typographical error and is not in any way new matter under 35 USC 132(a).

10/280,950

Accordingly, the petition of February 23, 2007 is **GRANTED.** The examiner is instructed to enter the amendment to page 9, line 31 of the specification.

Jmstone

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

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP
Seventh Floor
1100 Superior Avenue
Cleveland OH 44114-2518

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MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK, NY 10017

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JAN 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael COOPER	:	
Application No. 10/280,957	:	DECISION ON PETITION
Filed: October 24, 2002	:	TO WITHDRAW
Attorney Docket No. 152-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2007 and June 21, 2007.

The request is **DISMISSED** as moot.

The death of a sole inventor terminates the power of attorney given by the deceased inventor. See MPEP 409.01. 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 assignee of the entire interest at the address below until otherwise properly notified.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: EARL ANDERSON
11438 N. 580 RD.
TAHLEGUAH, OK 74464

UNITED STATES PATENT AND TRADEMARK OFFICE

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FRISHAUF HOLTZ GOODMAN & CHICK, PC
220 FIFTH AVENUE, 16TH FLOOR
NEW YORK, NY 10001-7708

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of	:
Kiichirou Kawamoto	:
Application No. 10/280,972	: DECISION GRANTING PETITION
Filed: October 25, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02616/LH	:

This is a decision on the petition, filed March 20, 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 September 30, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\280972.wpd

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

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JJGJr.: 07-05

Paper No. __

ADAMS & WILKS
31ST FLOOR
50 BROADWAY
NEW YORK NY 10004

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JUL 2 8 2005

OFFICE OF PETITIONS

In re Application of
Iino, et al.
Application No. 10/281,021
Filed: 25 October, 2002
Attorney Docket No: S004-4858

ON PETITION

This is a decision on the petition under 37 C.F.R. §1.55(a)(2), filed 10 February, 2005, for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED**.

Receipt is acknowledged of papers submitted under 35 U.S.C. §119.

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority of a certified priority document under 37 C.F.R. §1.55(a) was changed effective 7 November, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 C.F.R. §1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. §119(a)-(d) to make the priority claim information in the text of the patent. In such a situation, the patent will not contain the priority claim information.

The patentee may request a certificate of correction under 35 U.S.C. §255 and 37 C.F.R. §1.323 and a determination of entitlement for such priority will be made after the patent is granted. See Federal Register/Vol. 65, No. 175, 8 September, 2000, page 54622.

Nevertheless, since the petition under 37 C.F.R. §1.55(a) is now before the deciding official, a favorable decision has been rendered. However, if the printing of the patent has progressed to the point where the priority data cannot be included on the printed patent, Petitioner may request a certificate of correction pursuant to the provisions of 37 C.F.R. §1.323 and pay the required fee of $100.00.

Any questions concerning this decision on petition should be directed to John J. Gillon, Jr., Senior Attorney, Office of Petitions at (571) 272-3214.

Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-6789.

This matter is being referred to Publishing Division.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

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MAY 0 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,157,260	:	
Issued: January 2, 2007	:	
Application No. 10/281,024	:	NOTICE
Filed: October 25, 2002	:	
Patentee: Satoshi Mori, et al.	:	

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SYDNEY A. CUNNINGHAM
1368 NEW YORK AVENUE
BROOKLYN NY 11203

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AUG 2 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Cunningham, Sydney A.	:	
Application No. 10/281,039	:	ON PETITION
Filed: October 28, 2002	:	
Title: QUANTUM DISK ARMATURE ELECTRIC GENERATOR	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 3, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 26, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 27, 2007. A Notice of Abandonment was mailed on July 20, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (3). Although implied, the petition lacked the specific statement above as required by 37 CFR 1.137(b).

After payment of the remainder of the $700.00 issue fee and the $750.00 petition fee, a $94.00 surplus was left. Accordingly, the excess funds will be refunded via treasury check in due course.

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 Walsh
Petitions Examiner
Office of Petitions

DATE 10/16/07 APPLICATION NUMBER 10281039

DOC CODE PetDecPubs DOC DATE 10/16/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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SYDNEY A. CUNNINGHAM
1368 NEW YORK AVENUE
BROOKLYN NY 11203

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OCT 1 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Cunningham, Sydney A.	:	
Application No. 10/281,039	:	ON PETITION
Filed: October 28, 2002	:	
Title: QUANTUM DISK ARMATURE ELECTRIC GENERATOR	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed September 25, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The unintentional delay statement has now been received.

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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Paper No. 9

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of:
Zhang et al.
Application No. 10/281,053
Filed: October 24, 2003
Title of Invention:
THREE-DIMENSIONAL STRUCTURES OF TALL-1 AND ITS COGNATE RECEPTORS AND MODIFIED PROTEINS AND METHODS RELATED THERETO

ON PETITION

This is in response to a petition under 37 CFR 1.47(a), filed May 22, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should 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, 2003, without, *inter alia*, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on December 4, 2002, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Petitioner files the instant wherein Petitioner avers that the nonsigning inventor refuses to execute the Declaration. This assertion is supported by the Declaration of Brad Brockbank, wherein Mr. Brockbank avers that the

Declaration and Assignment were sent to the nonsigning inventor via overnight mail. *Brockbank Declaration* at p.3.

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

Applicant lacks item (1) set forth above.

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states 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.

MPEP 409.03(d).

While the petition avers that the nonsigning inventor refuses to acknowledge receipt of the application papers, the petition does not aver that the application (specification, claims and drawings) was sent to the nonsigning inventor. Accordingly, where it is alleged that an inventor refuses to join an application, the MPEP requires that a copy of the application be sent to the last known address of the nonsigning inventor. See, MPEP 409.03(e).

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

COPY MAILED
NOV 13 2003
OFFICE OF PETITIONS

In re Application of:
Zhang et al.
Application No. 10/281,053
Filed: October 24, 2003
Title of Invention:
THREE-DIMENSIONAL STRUCTURES OF TALL-1 AND ITS COGNATE RECEPTORS AND MODIFIED PROTEINS AND METHODS RELATED THERETO

ON PETITION

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a) filed November 6, 2003, noting the joinder of the inventor.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration/Power of Attorney has been entered and made of record.

This application is being forwarded to Technology Center Art Unit 1646 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

COPY MAILED

MAY 0 6 2003

OFFICE OF PETITIONS

In re Application of
Kenneth B. Beckman, Robert D. Larsen, and Kathleen Y. Lee
Application No. 10/281,054
Filed: October 25, 2002
Attorney Docket No.: 20-000820US
Title: ASYMMETRIC PCR WITH NUCLEASE-FREE POLYMERASE OR NUCLEASE-RESISTANT MOLECULAR BEACONS

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed March 25, 2003.

The above-identified application was filed on October 25, 2002, identifying Kenneth B. Beckman, Robert D. Larsen, and Kathleen Y. Lee as joint inventors. On December 24, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, a surcharge for its late filing, the basic filing fee, and additional claim fees. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

In reply, applicant filed the instant petition (and fee), as well as the surcharge associated with the late filing of an oath or declaration and the excess claim fees. To make timely this reply, a one-month extension of time was requested[2].

Petitioner has also submitted a declaration executed by inventors Beckman and Lee, a declaration of facts executed by Ms. Brink, the Director of Intellectual Property Services for the purported assignee, and a copy of a Federal Express Tracking Report showing that a package was not delivered due to either the customer not being available or the business was closed, and several e-mails from the declarant to the non-signing inventor.

Petitioner has not stated whether he is filing under the "Inventor Refuses to Sign" standard or the "Inventor cannot be Reached" standard. As a package was sent to the non-signing inventor at his last known address, it will be assumed that Petitioner is filing under the former.

Petitioner has met requirements (1) – (3) above.

Regarding the fourth requirement above, Ms. Brink has stated that she sent a package to the non-signing inventor's last known address, but she has not stated what this package contained. As such, petitioner has not shown that a complete copy of the application was sent to the non-signing inventor. Petitioner's showing is insufficient to evince, as required, that Rule 47 applicant presented the inventor with a copy of the entire application.

Furthermore, it follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to reply to the e-mails and telephone messages described in the declaration of facts does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[3].

Regarding the fifth requirement above, the declaration is not compliant with 28 U.S.C. 1746, in that signing inventor Beckman has failed to affix a date underneath her signature.

On renewed petition, Petitioner may provide either: proof that a complete copy of the application was sent to the non-signing inventor, coupled a declaration which has been properly executed by both of the signing inventors, or; a declaration which has been properly executed by each of the three joint inventors.

For this reason, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

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2 The Notice was mailed on December 24, 2002, and the instant petition was received on March 25, 2003, without a certificate of mailing. As such, a two-month extension of time was required, which has been charged to Petitioner's Deposit Account, as authorized in the petition.

3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(a)."

The reply to this letter may be submitted by mail[4, 5], hand-delivery[6], or facsimile[7].

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

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

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4 Commissioner for Patents, Box DAC, Washington, DC 20231.

5 **Note: as of May 1, 2003, the mailing address for addressing correspondence to the Office will change to: United States Patent and Trademark Office, PO Box 1450, Alexandria, VA, 22313-1450.**

6 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

7 (703) 308-6916, Attn: Office of Petitions.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

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AUG 2 0 2003

OFFICE OF PETITIONS

In re Application of Kenneth B. Beckman, Robert D. Larsen, and Kathleen Y. Lee Application No. 10/281,054 Filed: October 25, 2002 Attorney Docket No.: 20-000820US Title: ASYMMETRIC PCR WITH NUCLEASE-FREE POLYMERASE OR NUCLEASE-RESISTANT MOLECULAR BEACONS	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. 1.47(a)[1], filed August 11, 2003[2].

The above-identified application was filed on October 25, 2002, identifying Kenneth B. Beckman, Robert D. Larsen, and Kathleen Y. Lee as joint inventors. On December 24, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63,

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

2 The renewed petition was filed with a one-month extension of time, and contained a certificate of mailing dated August 5, 2003.

a surcharge for its late filing, the basic filing fee, and additional claim fees. This Notice set a two-month period for reply.

The original petition, filed on March 25, 2003, was dismissed for failure to establish that a complete copy of the application had been forwarded to non-signing inventor Larsen, that he had refused to execute the declaration, and for failure to submit an acceptable oath or declaration.

With the renewed petition, petitioner has corrected these deficiencies.

As such, the renewed petition under 37 C.F.R. §1.47(a) 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.

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

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

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

Paul Shanoski

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

In re Application of	:	
CHEN, Zesen et al.	:	
Application No. 10/281,056	:	DECISION ON PETITION
Filed: October 25, 2002	:	TO WITHDRAW
Attorney Docket No. **8285/515**	:	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 05, 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 Scott Brim on behalf of all attorneys of record who are associated with customer No. 83808. All attorneys/agents associated with the Customer Number 83808 have been withdrawn. Applicant is reminded that 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 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).

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **ZESEN CHEN**
3906 STONERIDGE DRIVE, APT. 7
PLEASANTON CA 94588

cc: **AT & T KNOWLEDGE VENTURES, L.P.**
ATTN: PATENT DOCKETING ROOM 2A-207
BEDMINISTER NJ 07921

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

JAMES H. PATTERSON
PATTERSON THUENTE SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MINNESOTA 55402-2100

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OFFICE OF PETITIONS

In re Application of :
Grant Quam et al :
Application No. 10/281,063 : NOTICE
Filed: October 25, 2002 :
Attorney Docket No. 1088.136US02

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

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

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

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

This file is being forwarded to Technology Center 2800.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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OFFICE OF PETITIONS

In re Application of
Daniel Carl Neuman et al.
Application No. 10/281,065
Filed: October 25, 2002
Attorney Docket No.: 2187-4591US

ON PETITION

This is a decision on the petition filed December 2, 2004 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 26, 2004. The Notice of Allowability, also mailed August 25, 2004, required the submission of formal drawings on or before November 26, 2004. This application became abandoned November 27, 2004. The instant petition and decision on petition precedes the mailing of the Notice of Abandonment.

Receipt of the issue fee and formal drawings as well as publication fee, petition fee and order for advance copies are acknowledged.

This application is being forwarded to the Publishing Division for review of the drawings shown as having been received in the PTO on December 2, 2004.

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

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

SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/26/2010

Applicant	: Ye Chen	: DECISION ON REQUEST FOR
Patent Number	: 7644863	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/281,074	: 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 **2203** 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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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DEC 21 2009
OFFICE OF PETITIONS

In re Application of	:	
Michael P. HOFFMAN	:	
Application No. 10/281,088	:	DECISION ON PETITION
Filed: October 25, 2002	:	
Attorney Docket No. 1153.025US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 24 2008, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 24 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 4231.

The application file is being referred to Technology Center AU 1615 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
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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Kenneth E. Jenskins, Ph.D. , Esq
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco CA 94111-3834

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APR 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Arun K. Ghosh et al.	:	
Application No. 10/281,092	:	DECISION ON PETITION
Filed: October 23, 2002	:	TO WITHDRAW
Attorney Docket No. 2932.1001-004	:	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 7, 2007.

The request is **NOT APPROVED**.

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

The 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, ***assignees instructed application be transferred***, do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Morrison & Foerster**
755 Page Mill Road
Palo Alto, CA 94304-1018

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.

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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JAN 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas J. Whalen II, et al.	:	LETTER REGARDING
Application No. 10/281,142	:	PATENT TERM ADJUSTMENT
Filed: October 28, 2002	:	
Attorney Docket No. 355492-2551	:	
Title: NOVEL HIGH VISCOSITY	:	
EMBOLIZING COMPOSITIONS	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed December 9, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from one thousand and fifty-three (1053) days to zero days.

The request for review of the patent term adjustment (PTA) is **DISMISSED** to the extent that it requests correction of the patent term adjustment.

On November 7, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1053 days. Applicant requests that this determination be reviewed, as this application is subject to a terminal disclaimer.

A review of the application history supports a conclusion that the initial Determination of Patent Term Adjustment is correct.

An amendment was filed on July 19, 2004, and an Information Disclosure Statement was submitted on July 23, 2004. Hence, a period of reduction of 4 days was entered pursuant to 37 CFR 1.704(c)(8). Further, applicants did not file a response to the non-final Office action mailed March 18, 2004 until July 19, 2004, three months and 31 days later. Thus, a period of reduction of 31 days was entered pursuant to 37 CFR 1.704(b), for taking in excess of three months to file a response to an Office action. Moreover, after a final rejection was mailed on November 4, 2004, a Notice of Appeal was not filed until May 4, 2005, three months and 89 days later. Thus, a period of reduction of 89 days was entered, pursuant to 37 CFR 1.704(b) for taking in excess of three months to file a response to an Office action.

Applicants will note that the filing of the terminal disclaimer on July 19, 2004 has no effect on the determination of patent term adjustment *set forth* on any patent issuing from this application. It is true that 35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

Moreover, 37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

However, the provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

As this letter was submitted as an attempt to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) will be refunded to applicant's credit card in due course. Applicants should advise the Office of any basis for the filing of this letter (i.e., any basis for correction of the patent term adjustment pursuant to Comment 43) not addressed in this decision.

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

Telephone inquiries specific to this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GERALD F. SWISS
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313

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MAR 2 7 2003

OFFICE OF PETITIONS

In re Application of
Whalen, Tran, Roth and Greff
Application No. 10/281,156
Filed: October 28, 2002
For: METHODS FOR EMBOLIZING VASCULAR SITES USING HIGH-VISCOSITY EMBOLIZING COMPOSITIONS

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

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 28, 2002, and which is a copy of a petition filed in application No. 09/574,379.

The petition is granted.

The above-identified application was filed on October 28, 2002 as a continuation of Application No.09/574,379 and with a copy of the declaration from the prior application. On October 28, 2002, a copy of the decision granting status under 37 CFR 1.47 in application No. 09/574,379 was filed, among other things.

Where status under 37 CFR 1.47 is granted in a first application and the non-signing inventor does not later join in the filing of the application by executing an oath or declaration for the application, and another application (a child application) is later filed claiming the benefit of the filing date of the first application and using the declaration of the prior application, status under 37 CFR 1.47 continues to exist in the child application.

Accordingly, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

The application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries regarding 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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CHINH N. TRAN
21741 ALVAREZ
MISSION VIEJO, CA 92691

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MAR 2 7 2003

OFFICE OF PETITIONS

In re Application of
Whalen, Tran, Roth and Greff
Application No. 10/281,156
Filed: October 28, 2002
For: METHODS FOR EMBOLIZING VASCULAR SITES USING HIGH-VISCOSITY EMBOLIZING COMPOSITIONS

Dear CHINH N. TRAN:

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) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

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

GERALD F. SWISS
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313

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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Ropes and Gray, LLP
Patent Docketing 39/361
1211 Avenue of the Americas
New York, NY 10036-8704

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APR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Timothy H. Heaton et al.	:	
Application No. 10/281,166	:	DECISION ON PETITION
Filed: October 28, 2002	:	TO WITHDRAW
Attorney Docket No. CF-60	:	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 19, 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 Laurence S. Rogers on behalf of all attorneys/agents of record. All attorneys/agents of record 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 assignee of the entire interest who has properly intervened under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address indicated in the request to withdraw. If this company desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Timothy H. Heaton
19 Old Glen Road
Morristown, NJ 07960

cc: Dean P. Alderucci
Cantor Fitzgerald, L.P.
110 East 59th Street (6th Floor)
New York, NY 10022

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
10/281,166	10/28/2002	Timothy H. Heaton	CF-60

CONFIRMATION NO. 3304

POWER OF ATTORNEY NOTICE

OC000000029378477

64558
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Date Mailed: 04/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/19/2008.

- 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.

/kainabinet/

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

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DIW 05-03

Paper No. 7

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

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MAY 16 2003

OFFICE OF PETITIONS

In re Application of	:	
Weaver et al.	:	
Application No. 10/281,218	:	DECISION
Filed: 28 October, 2002	:	UNDER 37 CFR 1.28(c)
Attorney's Docket No. 10052/2401	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 11 February, 2003.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The current fee due for a large entity is $1,038.00. On 28 October, 2002, $514.00 was paid. Therefore, a deficiency of **$524.00** is due. Petitioners has submitted authorization to charge counsel's deposit account in amount of $524. However, petitioners are ultimately responsible for ensuring that the correct fee is paid and MUST notify the Office if the above calculations are incorrect.

Small entity status will no longer apply.

The file is being forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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KENYON & KENYON
1500 K STREET, N.W.
SUITE 700
WASHINGTON, DC 20005

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael S. Weaver et al	:	
Application No. 10/281,218	:	NOTICE
Filed: October 28, 2002	:	
Attorney Docket No. 10052/2401	:	

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

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

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

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

This matter is being referred to Technology Center AU 2829.

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

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KENYON & KENYON LLP
1500 K STREET NW
SUITE 700
WASHINGTON, DC 20005

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of	:
Shiro Akiyama	:
Application No. 10/281,219	: DECISION GRANTING PETITION
Filed: October 28, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10517/128	:

This is a decision on the petition, filed December 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 2, 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 1745 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\Dec10\281219.wpd

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

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Shiro Akiyama	: DECISION ON REQUEST FOR
Patent Number	: 7582377	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/281,219	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **281** 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Masashi Ando et al	:	
Application No. 10/281,247	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. Q72598	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3751 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/281,252	10/28/2002	Hiroyuki Yokoi	229912US-3CONT	4373

22850 7590 03/24/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
HYUN, PAUL SANG HWA

ART UNIT	PAPER NUMBER
1797	

NOTIFICATION DATE	DELIVERY MODE
03/24/2010	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):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.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

MAR 2 4 2010

wk

Mailed:
In re application of
Boggs et al.
Serial No. 10/281,252
Filed: 10/28/2002
For: Cartridge For Automatic Measurement And Measuring Method Using It

DECISION ON PETITION

This is a decision on a PETITION filed August 29, 2007, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that documents related to a Request for Continued Examination (RCE) be expunged. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/281,252

The images will be removed from the Official file.

/JACQUELINE STONE/

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

Raymond F. Cardillo, Jr.
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

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Commissioner for Patents
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Alexandria, VA 22313-1450
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ISIS PHARMACEUTICALS, INC.
1896 RUTHERFORD ROAD
CARLSBAD, CA 92008

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Stanley T. Crooke	:	
Application No. 10/281,297	:	DECISION ON PETITION
Filed: October 25, 2002	:	TO WITHDRAW
Attorney Docket No. N/A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 12, 2006.

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

A review of the file record indicates that the power of attorney to ISIS PHARMACEUTICALS, INC. has been revoked by the assignee of the patent application on August 10, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

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Paper No. 6

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of
Satoshi Moriya, Hisayoshi Kobayashi, and
Nobuyuki Miyazaki
Application No.10/281,301
Filed: October 28, 2002
Attorney Docket Number: 04329.2941
Title of Invention: METHOD AND SYSTEM
FOR ELECTRONIC COMMERCE OF
SEMICONDUCTOR IP

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 26, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Shunichi Takeuchi attest the non-signing inventor was presented with a copy of the application papers. A phone call with non-signing inventor confirmed his refusal to execute the application papers.

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Satoshi Moriya
546-20 Futoocho
Kohoku-Ku, Yokohama-shi
Kanagawa 222-0031
Japan

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of
Satoshi Moriya, Hisayoshi Kobayashi, and Nobuyuki Miyazaki
Application No.10/281,301
Filed: October 28, 2002
Attorney Docket Number: 04329.2941
Title of Invention: METHOD AND SYSTEM FOR ELECTRONIC COMMERCE OF SEMICONDUCTOR IP

LETTER

Dear Mr. Moriya:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Richard V. Burgujian
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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ISIS PHARMACEUTICALS INC
1896 RUTHERFORD RD.
CARLSBAD CA 92008

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OFFICE OF PETITIONS

In re Application of	:	
Stanley T. Crooke	:	DECISION ON PETITION
Application No. 10/281,312	:	TO WITHDRAW
Filed: October 25, 2002	:	FROM RECORD
Attorney Docket No. ISIS0002-106	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 12, 2006.

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

A review of the file record indicates that on July 12, 2006 the power of attorney to Isis Pharmaceuticals, Inc. (customer number 34138) 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 above address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272- 3206. 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

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MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON, VA 20190

COPY MAILED

APR 08 2005

OFFICE OF PETITIONS

In re Application of John Didomenico, James H. Johnson, Donald H. Stedman, Gary A. Bishop and Craig S. Rendahl Application No. 10/281,323 Filed: October 28, 2002 Title: EXHAUST OPACITY MEASURING DEVICE	: : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the papers submitted October 28, 2002 and February 20, 2003, which have been treated as a "Petition Under 37 CFR 1.47(a)."

The petition is **granted**.

Petitioner has submitted the "Decision According Status Under 37 CFR 1.47(a)" from application no. 09/818,664, in which the above-identified application is a continuation. As such, petitioner has shown that despite diligent efforts, non-signing joint inventor John Didomenico could not be reached, and that non-signing joint inventor James H. Johnson has refused to join in the filing of the above-identified application after having been presented with the application papers.

Accordingly, 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.

Telephone inquiries regarding 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD P. BERG
C/O LADAS & PARRY
SUITE 2100
5670 WILSHIRE BOULEVARD
LOS ANGELES, CA 90036-5679

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MAY 0 8 2003

OFFICE OF PETITIONS

In re Application of	:
Daniel Yap et al	:
Application No. 10/281,331	: DECISION GRANTING STATUS
Filed: October 25, 2002	: UNDER 37 CFR 1.47(A)
For: OPTICALLY SAMPLED DELTA-SIGMA	:
MODULATOR	:

This is in response to the petition under 37 CFR 1.47(a), filed February 10, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2631 for examination in due course.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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HENRIK T. JENSEN
11972 KIOWA AVE., #202
BRENTWOOD, CA 90049

COPY MAILED

MAY 0 8 2003

OFFICE OF PETITIONS

In re Application of
Daniel Yap and Henrik T. Jensen
Application No. 10/281,331
Filed: October 25, 2002
For: OPTICALLY SAMPLED DELTA-SIGMA MODULATOR

Dear Mr. Jensen:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:
RICHARD P. BERG
C/O LADAS & PARRY
SUITE 2100
5670 WILSHIRE BOULEVARD
LOS ANGELES, CA 90036-5679

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)
6836423	2004-12-28	10281337	2002-10-25	P8843C

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	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2009-11-02
Name	/Jeffrey S. Draeger/	Registration Number	41000

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6836423
Issue Date: December 28,2004
Application No. 10281337
Filed: October 25,2002
Attorney Docket No. ITO.0529C1 (P8846C)

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

This is a decision on the electronic petition, filed November 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2009 . 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/281,340	10/25/2002	2663	536	0103281-17CON	19	26	4

CONFIRMATION NO. 4350

CORRECTED FILING RECEIPT

OC000000011080299

David J. Powsner
Nutter, McClennen & Fish, LLP
One International Place
Boston, MA 02110-2699

Date Mailed: 10/22/2003

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

Applicant(s)

Vijay Aggarwal, Marlboro, MA;
Wayne Boland, Acton, MA;
Brittain McKinley, Groton, MA;
Alan Beardsley, Bedford, MA;
John Flanders, Ashland, MA;

Domestic Priority data as claimed by applicant

This application is a CON of 10/087,006 02/28/2002
which claims benefit of 60/272,407 02/28/2001
and claims benefit of 60/272,387 02/28/2001
and claims benefit of 60/272,328 02/28/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/11/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods and apparatus for packet routing with improved traffic management and scheduling

Preliminary Class

370

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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WASHINGTON, DC 20005-3500

MAIL

JUN 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: MORRIS, et al.
Application No. 10/281,348
Filed: October 28, 2002
For: FACILITATING NEGOTIATIONS BETWEEN USERS OF A COMPUTER NETWORK THROUGH MESSAGING COMMUNICATIONS ENABLING USER INTERACTION

DECISION ON PETITION UNDER 37 CFR § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition under 37 CFR § 1.181 to withdraw the holding of abandonment of the above-identified application filed 14 February 2005.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a proper reply to the Office letter mailed 13 November 2003. A Notice of Abandonment was mailed 14 December 2004.

A review of the file record indicates that the Appeal Brief and petition/fee for a three-month extension of time were received on 04 October 2004 and were scanned into the Image File Wrapper. Therefore, the record is clear that the application was not abandoned in fact and a Notice of Abandonment should not have been issued. Accordingly, the petition is **GRANTED** and the Notice of Abandonment is **WITHDRAWN**.

The Office regrets any inconvenience caused by the mailing of the Notice of Abandonment.

The petition requests refund of the $1,500 fee for reviving an unintentionally abandoned application under 37 CFR 1.137(b) which accompanied the petition under 37 CFR 1.181 to withdraw the holding of abandonment. This fee has been refunded to Deposit Account 06-1050. However, a fee of $550 has been charged to this account because the fee for a two-month extension of time ($430) was charged for the Appeal Brief when a three-month extension of time fee ($980) was required.

The application file is being forwarded to the Technology Center support staff for processing of the Appeal Brief. After processing, the application will then be forwarded to the examiner for appropriate action.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ISIS PHARMACEUTICALS, INC.
1896 RUTHERFORD ROAD
CARLSBAD, CA 92008

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Stanley T. Crooke	:	
Application No. 10/281,349	:	DECISION ON PETITION
Filed: October 25, 2002	:	TO WITHDRAW
Attorney Docket No. ISIS0002-105 (ISIS-5780)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 12, 2006.

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

A review of the file record indicates that the power of attorney to ISIS PHARMACEUTICALS, INC. has been revoked by the assignee of the patent application on September 7, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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

ISIS PHARMACEUTICALS INC
1896 RUTHERFORD RD.
CARLSBAD, CA 92008

Mail Date: 04/21/2010

Applicant	: Stanley T. Crooke	: DECISION ON REQUEST FOR
Patent Number	: 7629321	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/281,349	: 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 **872** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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In re Patent No. 6781049
Issue Date: August 24,2004
Application No. 10281359
Filed: October 28,2002
Attorney Docket No.

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

This is a decision on the electronic petition, filed October 15,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 15,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6781049	2004-08-24	10281359	2002-10-28	

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	/Charles R. Taylor/	Date (YYYY-MM-DD)	2008-10-15
Name	Charles R. Taylor		

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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FEB 18 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA, FL 32922

In re Application of
Thomas P. Nelson
Application No. 10/281,374
Filed: October 25, 2002
For: SUB-RIGID FAST-FORM BARRIER SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on December 15, 2003..

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on May 23, 2003 . and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/2/14/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

July 24, 2003

David S. Safran
Nixon Peabody
8180 Greensboro Dr., Suite 800
McLean, VA 22102

In re application of:
Thomas Switowski DECISION ON PETITION
Serial No.: 10/281,376
Filed: October 28, 2002
For: STAMPING TOOL, CASTING MOLD AND
METHOD FOR STRUCTURING A SURFACE OF A WORK PIECE

This is a decision on the petition received on May 20, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed December 2, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned February 3, 2003. The Notice of Abandonment was mailed on April 28, 2003.

On May 20, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice of Missing Parts on March 4, 2003.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice of Missing Parts on March 4, 2003.

The petition is hereby Granted.

The original documents submitted on March 4, 2003 have been found to complete the above application.

The application has been completed for release to Technology Center 1725.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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David B. Ritchie
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

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OFFICE OF PETITIONS

In re Application of	:	
John D. Hyde et. al.	:	
Application No. 10/281,384	:	NOTICE
Filed: October 24, 2002	:	
Attorney Docket No. IMPJ-0005	:	

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 being referred to Technology Center Art Unit 2819, to await the response to the non-final Office action mailed August 24, 2004.

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711[1].

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

[1]Inquiries after September 27, 2004, should be directed to (571) 272-3226.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/14/07

Paper No.: _____

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/281,388 Patent No.: 7176446B1

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

2878
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW 05-04

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

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MAY 21 2004
OFFICE OF PETITIONS

In re Application of	:
Satya, Federov, and Song	: DECISION ACCORDING STATUS
Application No. 10/281,427	: UNDER 37 CFR 1.47(a)
Filed: 24 October, 2002	:
Atty Docket No. KLA1PO47D1/P626B	:

This is in response to the petition filed under 37 CFR 1.47(a) on 24 October, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Vladimir Federov, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor. However, the non-signing inventor refused, via e-mail to sign without compensation an executed declaration listing him as a joint inventor along with Akella V.S. Satya and Li Song.

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

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

After this decision is mailed, the application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 3/14/05 Paper No.: _____

TO : Supervisor, Art Unit 2863

SUBJECT : Certificate of Correction Request in Patent No.: 10/281,432 6,813,572

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

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

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. NO. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☑ YES ☐ NO

☐ Comments: to correct typographical only

John Barlow
Supervisory Patent Examiner
Technology Center 2800

Supervisor

2863

Art Unit

PTO/SB/44 (10-96)
Approved for use through 6/30/99. OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB Control number

(Also Form PT-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,813,572 B2

DATED : November 2, 2004

INVENTOR(S) : Satya et al.

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

In the Specifications:

Column 7, line 1, add --for (506) < X < [2*(506) + (504)], and-- after "$P\{X\} = \dfrac{X-S}{W+S}$".

Column 12, line 10

change "$w = aj^{-2}\exp\left(\dfrac{E_B}{kT}\right) = bI\sqrt{t}\exp\left(\dfrac{E_B}{kT}\right)$"

to -- $w = aj^{-2}\exp\left(-\dfrac{E_B}{kT}\right) = bI\sqrt{t}\exp\left(\dfrac{E_B}{kT}\right)$--.

Column 13, line 31,

change "$f(t) = \displaystyle\int_{w=0}^{w=w0} \frac{n(w)}{t\sigma\sqrt{2\pi}}\exp\left[-\frac{1}{2}\frac{(\ln t - \ln a + 2\ln(b/w) - E_B/kT)}{\sigma^2}\right]dw$"

to -- $f(t) = \displaystyle\int_{w=0}^{w=w0} \frac{n(w)}{t\sigma\sqrt{2\pi}}\exp\left[-\frac{1}{2}\frac{(\ln t - \ln a + 2\ln(b/w) - E_B/kT)^2}{\sigma^2}\right]dw$--.

Column 14, line 32,

change "$\lambda(t) = AD(\Delta t_o)\dfrac{V}{Gt} = -\ln\left(\dfrac{Y}{Y_0}\right)\dfrac{V}{G}\dfrac{1}{t}$"

to -- $\lambda(t) = AD(\Delta t_{ox})\dfrac{V}{Gt} = -\ln\left(\dfrac{Y}{Y_0}\right)\dfrac{V}{G}\dfrac{1}{t}$--.

In the Claims:

In line 6 of claim 1 (column 17, line 39) change "an instantaneous"
to --determining an instantaneous--.

MAILING ADDRESS OF SENDER:

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

PATENT NO. 6,813,572 B2

No. of Additional Copies

→ 1

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

JAN 2 8 2005

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.
10/281,439	10/28/2002	Nikolaus Mayr	GKN-016 D-1 (US)	4400

7590 09/29/2004

Wyatt, Gerber & O'Rourke, L.L.P.
99 Park Avenue
New York, NY 10016

EXAMINER
RODRIGUEZ, SAUL

ART UNIT	PAPER NUMBER
3681	

DATE MAILED: 09/29/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	: DECISION ON REQUEST
Nikolaus Mayer	: UNDER 37 CFR 1.97
Serial No: 10/281,439	: FOR CONSIDERATION
Filed: April 5, 2001	: OF INFORMATION
For: AXIAL SETTING DEVICE	: DISCLOSURE STATEMENT

The request under 37 CFR 1.97(d) for consideration of an information disclosure statement filed on July 6, 2004 after allowance has been:

( ) GRANTED.

(X) DENIED.

The request lacks:

(X) The required fee under 37 CFR 1.97(d)(2) and 1.17(p).

(X) A proper certification as specified in 37 CFR 1.97(e)(1) or 1.97(e)(2). 37 CFR 1.97(e)(1) requires statement to include that each item of information contained in the IDS was **first** cited in **any** communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the IDS.

The information disclosure statement has been placed of record in the file and will not be considered by the examiner. See Federal Register 65 Fed. Reg. 54603 (September 8, 2000); Official Gazette 1238 Off. Gaz. Pat Office 77 (September 19, 2000) for rule changes fo 37 CFR 1.97.

Charles A. Marmor

Charles A. Marmor, SPE
Art Unit 3681
(703) 308-0830

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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OFFICE OF PETITIONS

SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY MN 55125

Applicant: Scott Mackie	:	DECISION ON REQUEST FOR
Patent Number:Not Yet Available	:	RECALCULATION of PATENT
Issue Date: Not Yet Available	:	TERM ADJUSTMENT IN VIEW OF
Application No. 10/281,446	:	WYETH
Filed: 10/25/2002	:	

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC § 154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Applicant should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

In re Patent No. 6,942,613 :
Issue Date: September 13, 2005 :
Application No. 10/281,461 : NOTICE
Filed: October 25, 2002 :
Attorney Docket No. USGINZ6 402 :

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-23-09

TO SPE OF : ART UNIT 2113

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/281,467 Patent No.: 7,146,524

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

RoChaun Johnson
Certificates of Correction Branch
703-308-9390 ext. 119

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: Changes to claim 3 reflect the amendment entered on 12/13/05 and does not introduce any new matter nor change the scope of the claim. The remaining corrections are typographical in nature and add the omitted appendices in the patent. (/MM/)

/Robert Beausoliel/
SPE

2113
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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Office of the Director
Group 3600

Paper No. 9

THOMTE, MAZOUR & NIEBERGALL, L.L.C.
2120 S. 72ND STREET, SUITE 1111
OMAHA, NE 68124

In re Application of
Thomas R. Spaulding SR
Application No. 10/281,474
Filed: October 25, 2002
For: A BIRD DECOY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on January 26, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on June 20, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/2/23/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM DAVID KIESEL
2355 DRUSILLA LANE
BATON ROUGE, LA 70809

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OFFICE OF PETITIONS

In re Application of	:	
Neal Hammond et al	:	
Application No. 10/281,490	:	DECISION ON PETITION
Filed: October 28, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 8482.007	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2006, to revive the above-identified nonprovisional application for failure to timely reply to the non-final Office action of November 4, 2005 and for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely reply to the non-final Office action of November 4, 2005 and 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.

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

This application is being referred to Technology Center Art Unit 1651 for appropriate action in the normal course of business on the reply received July 24, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. ____

CAMPBELL STEPHENSON ASCOLESE LLP
4807 SPICEWOOD SPRINGS ROAD
BLDG 4, SUITE 201
AUSTIN, TX 78759

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APR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Eugene M. Feinberg et al
Application No. 10/281,503
Filed: October 28, 2002
Attorney Docket No. CIS0167US

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed April 8, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2816 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).

UNITED STATES 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.

ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE, NY 11747-2712

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Pablo Nolasco : DECISION ON PETITION
Application No. 10/281,508 :
Filed: October 28, 2002 :
Atty Docket No.AUTOLIFT-IMPROV:

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed April 4, 2005. This Office action set a shortened statutory period for reply of three (3) months from the mailing date of the action. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on July 4, 2005. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, petitioner filed a response to the non-final Office action, and met all other requirements for a grantable petition under 37 CFR 1.137(b).

Technology Center AU 3652 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the response submitted on petition filed November 23, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of
Alen D. Streuker, et al.
Application No. 10/281,530
Filed: October 28, 2002
Attorney Docket No. 8174D

ON PETITION

This is a decision on the petition, filed July 19, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed October 3, 2003.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3752 for consideration of the response filed July 19, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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JAN 06 2005

OFFICE OF PETITIONS

In re Application of	:	
Alen D. Streuker, et al.	:	
Application No. 10/281,530	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. 8174D	:	

SUBSTITUTE DECISION

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2004, to revive the above-identified application. The decision mailed October 29, 2004 is hereby vacated.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the non-final Office action mailed October 3, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 4, 2004.

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

[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.

The instant petition lacks item 1. Petitioner failed to submit a proper reply to the outstanding non-final Office action. Petitioner submitted a Terminal Disclaimer and an Information Disclosure Statement. However, petitioner failed to reply to every ground of objection and rejection in the Office action mailed October 3, 2003. The reply submitted must comply with 37 CFR 1.111.

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Alen David Streutker, et al. :
Application No. 10/281,530 : ON PETITION
Filed: October 28, 2002 :
Attorney Docket No. 8174D :

This is a decision in response to the petition, filed March 31, 2005, which is being treated as a renewed petition 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 the non-final Office action mailed October 3, 2003. This decision precedes the mailing of a Notice of Abandonment.

The application is being referred to Technology Center AU 3752 for consideration of the amendment filed March 31, 2005.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AKIN GUMP STRAUSS HAUER & FELD LLP
1111 LOUISIANA STREET
44TH FLOOR
HOUSTON TX 77002

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Darryl A. Bourgoyne et al	:	
Application No. 10/281,534	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. H055010.0040USO	:	

This is a decision on the petition, filed June 16, 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).

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

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

The examiner of Technology Center AU 3672 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LE LI
KENT OPTRONICS, INC.
973 MAIN STREET, UNIT-K
FISHKILL, NY 12524

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OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 10/281,538	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. KOI-02-01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 19, 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 June 30, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 1, 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 the Issue Fee Transmittal and requisite fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

The file is being forwarded 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: RODNEY T. HODGSON
822 PINES BRIDGE RD.
OSSINING, NY 10562

UNITED STATES PATENT AND TRADEMARK OFFICE

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MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

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AUG 1 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Phillip Clark et al :
Application No. 10/281,556 :
Filed: October 28, 2002 :
Attorney Docket No. MCA-500D1US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 14, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 15, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 1723 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jeffrey V. Bamber
7567 Pinehurst Drive
Cincinnati, OH 45244

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of

Jeffrey V. Bamber

Application No. 10/281,558

Filed: October 28, 2002

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed August 2, 2004.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on February 5, 2004, after it was believed that no response was received to the final Office action mailed November 4, 2003. The final Office action allowed a period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). An amendment was mailed November 10, 2003. An Advisory Action mailed November 25, 2003, advised that the amendment of November 10, 2003, failed to place the application in condition for allowance. No further responses were believed to have been received within the allowable period. A Notice of Abandonment was mailed on July 13, 2004, indicating that a proper reply to the final Office action was not received.

The instant petition maintains that a Request for Continued Examination and an amendment responsive to the final Office action was transmitted via facsimile on February 1, 2004. The petition was accompanied by a copy of the Request for Continued Examination and amendment containing a certificate of mailing executed by Jeffrey Bamber dated February 1, 2004. A copy of the facsimile confirmation sheet evidencing that all pages of the response were transmitted successful on February 1, 2004, also accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded Technology Center 3700, GAU 3711, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: DEC - 3 2004

rvk
Paper Number: _____

In re application of
David L. Breeden et al

Serial No. 10/281,559
Filed: October 28, 2002
For: ESTER-CONTAINING DOWNHOLE DRILLING COMPOSITION AND PROCESSES THEREFOR AND THEREWITH

DECISION ON PETITION

This is a response to the PETITION TO REVIVE AN ABANDONED APPLICATION UNDER 37 C.F.R. 1.137, filed August 19, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 29, 2004 for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed March 24, 2004, be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due dated March 24, 2004 were mailed to the old address in the record and not received by applicants.

DECISION

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

A review of the instant application file indicates that the request has merit. On February 09, 2004, the applicants filed a "Revocation of Power of Attorney With New Power of Attorney and Change of Correspondence Address" form and a "Statement Under 37 CFR 3.73(B)" form. However, the address change request filed February 09, 2004 has not been processed, therefore, the USPTO records have not been updated to include the new correspondence address of the attorney submitted on February 09, 2004. As a result, the Notice of Allowability and Notice of Allowance and Issue Fee Due dated March 24, 2004 were mailed to the old correspondence 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 Notice of Allowability and Notice of Allowance and Issue Fee Due to the new correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ROY F. HOUSE
5726 ETTRICK DRIVE
HOUSTON, TX 77035

10/281603

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090512

DATE : May 12, 2009

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 6,980,468

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:

Approved for entry
Initial: PL
Date: 05/12/2009.

5/13/09

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Art Unit 2836

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/14/05

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6,766,122

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.

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:

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
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

INEOS USA LLC
3030 WARRENVILLE RD, S/650
LISLE, IL 60532

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of
Ramaswamy Vaidyanathan, et al.
Application No. 10/281,624
Filed: October 28, 2002
Attorney Docket No. 37,264

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 3, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before May 29, 2007. A Notice of Abandonment was mailed on June 22, 2007. On August 3, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Publishing Division to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER – BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

COPY MAILED

AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Streutker et al.	:	
Application No. 10/281,634	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. 8174D2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 19, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed December 31, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 1, 2004. A Notice of Abandonment was mailed July 19, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). Petitioner has failed to submit a proper reply to the outstanding non-final Office action. Petitioner should submit an argument pointing out disagreements with each of the examiner's contentions and discuss the references applied against the claims. Petitioner should explain how the claims avoid the references or distinguish from them. The reply submitted must comply with 37 CFR 1.111.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER – BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

COPY MAILED

OCT 0 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Streutker et al.	:	
Application No. 10/281,634	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. 8174D2	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed September 23, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed December 31, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 1, 2004. A Notice of Abandonment was mailed July 13, 2004.

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

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: FEB 17 2004

THM
Paper No. 8

In re application of
Shun C. Fung et al.
Serial No. 10/281,645
Filed: October 28, 2002
For: HEAT TREATING A MOLECULAR SIEVE CATALYST

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed August 7, 2003, for failure to timely pay the Issue Fee as indicated in the Notice of Allowance and Issue Fee Due mailed March 25, 2003.

DECISION

Since petitioner asserts that said payment was timely submitted, the request qualifies 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.

Petitioner's evidence of timely filing includes a copy of the return fax receipt generated by the Patent Office Facsimile system, and a copy of the submission that includes a timely executed Certificate of Transmission/Mailing. In addition, the original submission has now been matched with the file and such indicates timely submission of the Issue Fee Transmittal forms. Petitioner correctly notes that the Transmittal form actually fails to indicate any means by which the Issue Fee may be collected. However, Petitioner asserts that general authorization was granted in the original filing papers of the instant application. Unfortunately, a review of those documents indicates that the authorization was not general, but instead specific to Filing Fees. See below:

OTHER FEE *(specify purpose)*

TOTAL FILING FEE

☐ A check in the amount of to cover the filing fee is enclosed.
☒ The Commissioner is hereby authorized to charge and credit Deposit Account No. 05-1712 as described below. A duplicate copy of this sheet is enclosed.
- ☒ Charge the amount of $848.00 as filing fee.
- ☒ Credit any overpayment.
- ☒ Charge any additional filing fees required under 37 C.F.R. 1.16 and 1.17.
- ☐ Charge the issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance, pursuant to 37 C.F.R. 1.311(b).

Signature

Dated: 28 October 2002

SHER, James
Reg. No.: 34,726
ExxonMobil Chemical Company

23456

cc:

In view of this evidence, the Petition is **DENIED**. Applicant may pursue a petition under 37 CFR 1.137(a) or (b).

After mailing of this decision, the application file shall be returned to the File Depository.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ExxonMobile Chemical Company
P.O. Box 2149
Baytown, TX 77522-2149

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN TX 77522-2149

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MAR 0 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Shun C. Fung et al	:	
Application No. 10/281,645	:	
Filed: October 28, 2002	:	
Attorney Docket No. 99B023B/2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 25, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 26, 2003.

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

This matter is being referred to Patent Publication.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Meisser et al.
Application No. 10/281,674
Filed: October 28, 2002
Attorney Docket No. 16041

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed January 13, 2003, requesting that the application be accorded a filing date of October 28, 2002, rather than the presently accorded filing date of October 29, 2002.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on October 28, 2002. In support of the assertion, petitioners submitted a printout of the USPS Track/Confirm Delivery Status indicating that a package bearing Express Mail label No. EV137893936US was en route on October 28, 2002 at 7:30 p.m. and delivered to the United States Patent and Trademark Office on October 29, 2002, at 10:11 a.m. The same Express Mail label number was placed on the transmittal sheet with the original application papers located in the official file.

In view of circumstances, the petition is granted.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to October 28, 2002, and the mailing of a corrected filing receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 032106

DATE : 02/05/06

TO SPE OF : ART UNIT **PETITIONS**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/281689 6924894

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:

Gregory J. Toatley, Jr.
Supervisory Patent Examiner

SPE

2877
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date : February 14, 2006

GLAXOSMITHKLINE
Corporate Intellectual Property
Mai B475, Five Moore Drive
P.O. Box 13398
Research Triangle Park, NC 27709-3398

Patent No: 6878698 B2
Application No.: 10/281735
Applicant: Keith Biggadike, et al.
Issued: April 12, 2005
Title: **ANTI-INFLAMMATORY ANDROSTANE DERIVATIVES**

Request for Certificate Of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.323.

It is a practice to exclude words such as **"A", "IMPROVED", "IMPROVEMENT IN," "New", or "NOVEL"** as the first word in the title of the invention. Therefore, no correction is in order here under Rule 1.322 or 1.323.

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

Further correspondence concerning this matter should be files and directed to Decisions and Certificate of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or (703) 308-9390 ext. 113

vt

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P.O. Box 1450
Alexandria, VA 22313-1450
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The Farrell Law Firm, P.C.
333 Earle Ovington Boulevard
Suite 701
Uniondale, NY 11553

DEC 1 2 2008

In re Application of:
Kwang-man Ok et al.
Serial No.: 10/281,767
Filed: October 28, 2002
Docket: 678-952(P10239)
Title: CELL SEARCH APPARATUS AND METHOD IN A MOBILE COMMUNICATION SYSTEM

DECISION ON PETITION

This is a decision on the petition filed February 1, 2008, under 37 C.F.R. § 1. 181, requesting review of the examiner's objection under 35 USC § 132(a) holding of new matter and the requirement to cancel the new matter made in the Office action of December 03, 2007 be reviewed and the examiner's position be reversed. The petition is before the Director of Technology Center 2400 for review.

The petition is **Granted**.

Petitioner asserts that in the Amendment of July, 06, 2007, the change of the term "PN code" to "scrambling code" throughout the written description does not constitute new matter in violation of 35 USC § 132(a).

In support of the petition, petitioner submitted the exhibits with the 1.132 Declaration, and it is asserted that the use of "PN code" was an error in the originally filed application. In addition, the term "PN code" was used in the written description, and the term "PN code" was "interchangeable" with the term "scrambling code" (Lim Declaration at paragraph 7).

The specification discloses a system and a method for a cell search in a UMTS system, and the method includes determining timing information and a code number of a cell. As shown in Fig. 7, element 615 and its corresponding description, scrambling codes are used as PN codes. In a UMTS system, complex PN sequences such as Gold sequences are used as scrambling codes, and variable length Walsh codes are used as channelization codes (exhibit B, sections 4 and 5).

As understood, the names "Pseudo-Noise" (PN) and "maximal-length" (ML) are used in some papers synonymously while other authors use the name PN sequences to indicate a very broad class of sequences, including for instance ML and Gold sequences. Therefore, in the instant application, the term "PN code" is "interchangeable" with the term "scrambling code." The petitioner's arguments are found persuasive and the new matter objection is hereby withdrawn.

Any inquiry regarding this decision should be directed to Chau Nguyen, Workgroup Quality Assurance Specialist, at (571) 272-3126.

Valencia Martin-Wallace

Valencia Martin-Wallace, TC Director
Technology Center 2400
Networks, Multiplexing, Cable and Security

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LAW OFFICE OF THERESIA C. SANDHU
955 WOODGROVE LANE
SAN JOSE, CA 95136

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Andrew Dung The Le :
Application No. 10/281,771 : ON PETITION
Filed: October 26, 2002 :
Attorney Docket No. 001010.P001 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 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 April 27, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on July 30, 2004 (certificate of mailing date July 27, 2004), did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed August 13, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 28, 2004.

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 February 23, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This matter is being referred to Technology Center 3652.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Ladas & Parry
26 West 61st Street
New York NY 10023

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OFFICE OF PETITIONS

In re Patent No. 6,917,309	:	
Issue Date: July 12, 2005	:	
Application No. 10/281,772	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. U 014279-7	:	

This is a decision on the petition filed October 3, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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ALEXANDRIA, VA 22313-1450
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Paper No. None

JENKENS & GILCHRIST
1401 MCKINNEY
SUITE 2600
HOUSTON TX 77010

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OFFICE OF PETITIONS

In re Application of	:	
Yuu-Gao Zhang	:	
Application No. 10/281,781	:	
Filed: October 28, 2002	:	DECISION ON PETITION
Attorney Docket No. 55025.4USPT	:	UNDER 37 C.F.R. §1.137(B)
Title: METHOD OF PRODUCING	:	
FABRIC	:	

This is a decision on the petition filed May 30, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed August 19, 2005, which set a shortened statutory period for reply of three months. An after-final amendment was received on December 21, 2005 (containing a certificate of mailing dated December 16, 2005), along with a petition for a one-month extension of time. An advisory action was mailed on January 6, 2006. No extensions of time under the

1 A grantable petition pursuant to 37 C.F.R §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on December 20, 2005. A notice of abandonment was mailed on April 20, 2006.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further included a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 and the associated fee.

No terminal disclaimer is required. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The concurrently submitted amendment shall serve as the required submission.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment of May 30, 2006 can be processed.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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

cc: Andrew G. DiNovo
JENKENS & GILCHRIST
401 Congress Ave.
Suite 2500
Austin, TX 78701

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Alexandria, VA 22313-1450
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DIW 01-05

CARL L. JOHNSON
JACOBSON AND JOHNSON
SUITE 285
ONE WEST WATER STREET
ST. PAUL MN 55107-2080

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of :
Stevens et al. :
Application No. 10/281,813 :
Filed: 28 October, 2002 :
Attorney Docket No. 5659 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 24 September, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 4 September, 2004, for failure to timely file the issue and publication fees in response

---

[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)).

to the Notice of Allowance and Issue Fee Due mailed on 3 June, 2004, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

The issue and publication fees have been received.

The 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

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Commissioner for Patents
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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OFFICE OF PETITIONS

In re Application of :
Andre Poclen :
Application No. 10/281,827 :
Filed: October 28, 2002 :
Attorney Docket No. PHNL021104 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2006, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Michael J. Ure appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Ure desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **DISMISSED**.

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

---

[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.

It is noted that petitioner included a Notice of Appeal with the present petition. However, a review of the record discloses that a timely Notice of Appeal was filed in the application on January 17, 2006. Therefore, the application became abandoned for a failure to timely file **the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2),** not as a result of a failure to respond to a final Office action mailed October 20, 2005 as noted in the Notice of Abandonment mailed September 14, 2006. Consequently, the Notice of Appeal, including fee, filed October 12, 2006 will not be processed.

In regard to the requisite petition fee. The petition fee could not be charged to counsel's deposit account since Mr. Ure is not an authorized user of the deposit account number identified.

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
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL J. URE
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
1109 MCKAY DRIVE MS41-SJ
SAN JOSE, CA 95131

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Paper No. 6

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MAY 30 2003

OFFICE OF PETITIONS

LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood FL 33022-2480

In re Application of
Halik, Schmid & Davis
Application No. 10/281,828
Filed: October 28, 2002
Attorney Docket No. MUH-12375
For: DIOXABORINES AS ORGANIC N-SEMICONDUCTORS, PROCESS FOR THE PRODUCTION OF SEMICONDUCTORS UTILIZING DIOXABORINES, AND SEMICONDUCTOR COMPONENT, FIELD EFFECT TRANSISTOR, AND DIODE HAVING A DIOXABORINE

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

This is in response to the petition under 37 CFR 1.47(a), filed April 1, 2003 (certificate of mailing date March 25, 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 28, 2002 without an executed oath or declaration. Accordingly, on November 26, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on April 1, 2003 (certificate of mailing date March 25, 2003), a petition for a two month extension of time and required fee, a declaration executed by 2 of 3 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Dieter Kottmann accompanied the petition. The declaration of Dieter Kottmann and accompanying exhibits establish that Mr. Kottmann mailed the application papers, including the specification, claims and drawings to an address in Nottingham, England, but the inventor failed to respond to two separate requests that she sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires

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

This petition lacks items (1) and (4) 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 letters to Mrs. Davis did not include the full address listed on the declaration. According to the Combined Declaration and Power of Attorney in Original Application, filed April 1, 2002 (certificate of mailing date March 25, 2003), Mrs. Davis' address is:

13 GRANTON AVENUE CLIFTON
NOTTINGHAM NG 119 AL
GREAT BRITAIN

Mr. Kottmann sent the two mailings to an address that left off the "119 AL" section of the address. It is not clear that Mrs. Davis would have received the mailings without the complete address listed on the correspondence/envelope.

Petitioners are requested to mail a copy of the application and the declaration to Mrs. Davis' address as listed on the Combined Declaration with a request that she execute the declaration. Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicants that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

As to item (4), a clear statement of the inventor's last known address is missing and is required. As stated above, the address listed for Mrs. Davis on the Combined Declaration is not identical to the addresses to which Mr. Kottmann sent the copy of the application and declaration and the reminder letter. Please state Mrs. Davis complete last known address in any reconsideration petition.

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

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

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Post Office Box 2480
Hollywood FL 33022-2480

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AUG 15 2003

OFFICE OF PETITIONS

In re Application of
Halik, Schmid & Davis
Application No. 10/281,828
Filed: October 28, 2002
Attorney Docket No. MUH-12375
For: DIOXABORINES AS ORGANIC N-SEMICONDUCTORS, PROCESS FOR THE PRODUCTION OF SEMICONDUCTORS UTILIZING DIOXABORINES, AND SEMICONDUCTOR COMPONENT, FIELD EFFECT TRANSISTOR, AND DIODE HAVING A DIOXABORINE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed August 1, 2003 (certificate of mailing date July 30, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Lisa Davis, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Dieter Kottmann and accompanying exhibits establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LISA DAVIS
13 GRANTON AVENUE CLIFTON
NOTTINGHAM NG119 AL
GREAT BRITAIN

COPY MAILED

AUG 1 5 2003

OFFICE OF PETITIONS

In re Application of
Halik, Schmid & Davis
Application No. 10/281,828
Filed: October 28, 2002
Attorney Docket No. MUH-12375
For: DIOXABORINES AS ORGANIC N-SEMICONDUCTORS, PROCESS FOR THE PRODUCTION OF SEMICONDUCTORS UTILIZING DIOXABORINES, AND SEMICONDUCTOR COMPONENT, FIELD EFFECT TRANSISTOR, AND DIODE HAVING A DIOXABORINE

LETTER

Dear Mrs. Davis:

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: LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood FL 33022-2480

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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WELSH & FLAXMAN LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA VA 22314

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AUG 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Moser et al.	:	
Application No. 10/281,837	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. MOS-008	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 29, 2004.

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

This matter is being referred to the Publishing Division for processing into a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

David M. Ostfeld
Chamberlain, Hrdlicka,
White, Williams & Martin
1200 Smith Street, Suite 1400
Houston, TX 77002-0310

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Lilie et al. :
Application No. 10/281,854 : ON PETITION
Filed: October 28, 2002 :
Attorney Docket No.: 800685-63 :

This is a decision on the petition filed January 29, 2003, requesting in effect, that a Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed December 2, 2002, be withdrawn.

The application was filed on October 28, 2002. However, on December 2, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of October 28, 2002 but page 15 of the specification (description and claims) appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends page 15 of the specification was filed on October 28, 2002. In support, the petition is accompanied by a copy of applicant's return postcard which lists 14 pages of specification and 5 pages of claims. The petition is further accompanied by a copy of page 15 of the specification.

Applicant's postcard receipt is prima facie evidence that 19 pages of specification (description and claims) were received on October 28, 2002, but page 15 of 19 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 15 of 19 pages of specification was received on October 28, 2002, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. The petition fee of $130.00 is being credited to deposit account 15-0697.

Since the original page 15 of the specification cannot be located in the Office, page 15 of the specification supplied on January 29, 2003, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 28, 2002, using the substitute page 15 of the specification supplied on January 29, 2003.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

DAVID M. OSTELD
CHAMBERLAIN, HRDLICKA,
WHITE, WILLIAMS & MARTIN
1200 SMITH STREET, SUITE 1400
HOUSTON, TX 77002-0310

COPY MAILED

AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Glenn T. Lilie :
Application No. 10/281,854 :
Filed: October 28, 2002 :
Attorney Docket No. 800685-63 :

ON PETITION

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

The petition is **DISMISSED.**

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

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

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the outstanding office action mailed on December 23, 2003. Petitioner must submit a proper response upon the filing of a renewed petition. Until a proposed response is received, this application cannot be revived. For applicant's convenience, a copy of the December 23, 2003 Office Action is enclosed.

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
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5684.

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

cc:

David M. Ostfeld
Adams and Reese, LLP
4400 One Houston Center
1221 McKinney
Houston, TX 77010

Attachment: December 23, 2003 Office Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

DAVID M. OSTFELD
ADAMS AND REESE, LLP
4400 ONE HOUSTON CENTER
1221 MCKINNEY
HOUSTON, TX 77010

COPY MAILED

OCT 25 2004

OFFICE OF PETITIONS

In re Application of	:	
Glenn Lilie et al	:	
Application No. 10/281,854	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. 800685-63	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 5, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application is being forwarded to Technology Center AU 3653 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

DAVID M. OSTFEID
ADAMS AND REESE LLP
4400 ONE HOUSTON CENTER
1221 MCKINNEY
HOUSTON, TX 77010

COPY MAILED

AUG 3 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Glenn T. Lilie et al	:	
Application No. 10/281,854	:	ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. 800685-63	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 13, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3653 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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MAY 17 2004
OFFICE OF PETITIONS

In re Application of
Tomomi Kawase
Application No. 10/281,878
Filed: October 28, 2002
Attorney Docket No. 9319S-000412

ON PETITION

This is a decision on the petition, filed May 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022-2585

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Kevin Flynn, et al. :
Application No. 10/281,881 : ON PETITION
Filed: October 28, 2002 :
Attorney Docket No. 100597-00108(POLY 19.110) :

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 3700 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

W. EDWARD JOHANSEN
11661 SAN VICENTE BOULEVARD
LOS ANGELES, CA 90049

COPY MAILED

NOV 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Josef Rabinovitz, et al.	:	
Application No. 10/281,899	:	ON PETITION
Filed: October 24, 2002	:	
Attorney Docket No. RABIN#5	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 29, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on April 30, 2004.

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

The application file is being forwarded to Technology Center 2100, Art Unit 2182 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 17 2005

Indianapolis Office 27879
Brinks Hofer Gilson & Lione
One Indiana Square, Suite 1600
Indianapolis, IN 46204-2033

In re Application of : LARRY J. UNDERWOOD Application No: 10/281,943 Filed: October 28, 20002 Attorney Docket No: 10831-018	: :	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee to permit reopening of prosecution. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified 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. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. 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 Lesley Morris at (571)272-6651.

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

Robert Oberleitner, Director
Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN - 4 2005

MAILED

JAN - 4 2005

OFFICE OF THE DIRECTOR
TC 3600

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of	:	
Terufumi Miyazaki et al.	:	
Serial No. 10/281,958	:	NOTICE OF WITHDRAWAL
Filed October 29, 2002	:	FROM ISSUE
For: AUTOMATIC TRANSMISSION	:	

The above-identified application is withdrawn from issue after the payment of the issue fee due to unpatentability of one or more claims.

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Examiner Ho at (703) 305-0738.

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

Robert Oberleitner, Director
Technology Center 3600

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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FROM DIRECTORS OFFICE

JUN 27 2005

TECHNOLOGY CENTER 3600

OBLON, SPIVAK, MCCELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of
Terufumi Miyazaki et al
Serial No: 10/281,958
Filed: October 29, 2002
For: AUTOMATIC TRANSMISSION

: PETITION DECISION
: UNDER 37 CFR 1.181

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. 1.181" received on November 9, 2004 requesting consideration of an information disclosure statement filed September 20, 2004.

The petition is **DISMISSED** as moot.

The Office action mailed February 8, 2005 included a copy of the PTO 1449 List Of References Cited By Applicant filed November 9, 2004 which was attached to the above petition. The November 9, 2004 PTO 1449 was a copy of the PTO 1449 filed with the Information Disclosure Statement filed September 20, 2004. The examiner initialed and signed the November 9, 2004 PTO 1449 and said the references were considered January 24, 2005.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Charles A. Marmor at (571) 272-7095.

Robert Oberleitner, Director
Patent Technology Center 3600
(571) 272-5350

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 9, 2005

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6,859,629

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

MS 8/31/05

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

Comments:

_____

_____

_____

_____

_____

SPE **Art Unit** 2852

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JJGJR.: 08-06

Paper No: __

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

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SEP 18 2006
OFFICE OF PETITIONS

In re Application of :
Iggarashi, et al. :
Application No. 10/281,968 : DECISION
Filing Date: 29 October, 2002 :
Attorney Docket No.: 230059US2X :

This is a decision on the petition filed on 20 June, 2006 alleging unintentional delay and seeking revival under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 16 December, 2005, with reply due absent extension of time on or before 16 March, 2006;

- on 16 June, 2006, Petitioner filed an after-final amendment, which, Petitioner, as one registered to practice before the Office, is aware is not of not of right,[1] appears not to have been entered by the Examiner, and the application went abandoned by operation of law after midnight, 16 June, 2006;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- with the instant petition and fee, Petitioner filed a Notice of Appeal with fee, and made the statement of unintentional delay.

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

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and of a holding of abandonment.[8]

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to Technology Center 1700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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

COPY MAILED

FEB 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Kiwamu Takehisa et al	:	
Application No. 10/281,985	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. KOM-170	:	

This is a decision on the petition, filed February 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 22, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2828 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : February 23, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

COPY MAILED
FEB 23 2006
OFFICE OF PETITIONS

Applicant(s) :Kiwamu Takehisa et al
Application No. :10/281,985
Filed :October 29, 2002

The above-identified application has been assigned Patent No. 7,010,011 and an issue date of March 7, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 7, 2006:

"All reference to Patent No. 7,010,011 to Kiwamu Takehisa et al of Japan for OSCILLATION METHOD AND DEVICE OF FLUORINE MOLECULAR LASER appearing in the Official Gazette of March 7, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/281,987	10/29/02	MARK EDWARD WALKER LOVE	PAT 474-2 US

BORDEN LADNER GERVAIS LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

EXAMINER	
TA, DAC	
ART UNIT	PAPER NUMBER
2833	

DATE MAILED: 5/20/04

NOTICE OF RESCINDED ABANDONMENT

☐ In response to your communication filed _____

☒ Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded. ~~The issue fee receipt will be mailed within six weeks.~~

For Kendrick Sorrell
Manager, Publishing Division
Office of Patent Publication

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BACON & THOMAS
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

COPY MAILED
AUG 27 2004
OFFICE OF PETITIONS

In re Application of	:	
Ming Nien	:	
Application No. 10/282,063	:	NOTICE
Filed: October 29, 2002	:	
Attorney Docket No. NIEN3016-WKP	:	

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.[1]

This matter is being referred to Publishing Division.

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 571-272-3201.

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Paper No. 7

SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN VA 22102

COPY MAILED

NOV 24 2003

OFFICE OF PETITIONS

In re Application of Richard B.C. Tucker Application No. 10/282,067 Filed: October 29, 2002 Attorney Docket No. STX-020	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed November 6, 2003.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on July 29, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

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

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A corrected filing receipt which sets forth a projected publication date of April 29, 2004 accompanies this decision.

The application file is being forwarded to Technology Center 3700, Group Art Unit 3711, for examination in due course.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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APR - 7 2005

EDWARD D. GRIEFF
HALE & DORR, LLP
1455 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

In re Application of	:
David S. Garvey et al	:
Serial No.: 10/282,071	: PETITION DECISION
Filed: October 29, 2002	:
Attorney Docket No.: 102258.265	:

This is in response to the petition under 37 CFR 1.144, filed September 9, 2004, requesting withdrawal of an improper restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained claims numbered 1-48 (however there were two claims numbered 23 and 34 making a total of 50 claims). In a first Office action, mailed October 10, 2003, a first examiner set forth a restriction requirement, as follows:

> Group I – Claims 1-4, drawn to compounds;
> Group II – Claims 5-21 and 47-49, drawn to compositions and methods;
> Group III – Claims 22-46 and 50, drawn to different compositions and methods.

The examiner indicated that Groups I and II, III were related as product and process of use and Groups II and II were related as combination/subcombination. The examiner provided adequate reasoning for restriction. Claims 1, 5 and 22 were further identified as generic to a plurality of distinct species and the examiner required an election of species within the group elected. The inadvertent claim misnumbering was not noted.

Applicants replied on November 7, 2003, electing Group II and electing a single species for further prosecution with traverse.

The application was reassigned to a new examiner who mailed a new Office action to applicants on February 26, 2004, vacating the previous restriction requirement, correcting the claim numbering and setting forth a new requirement, as follows:

Group I, claims 1-5, in part, , drawn to compounds and compositions of Formula I;
Group II, claims 1-5, in part, , drawn to compounds and compositions of Formula II;
Group III, claims 1-5, in part, , drawn to compounds and compositions of Formula III;
Group IV, claims 6, 48-49, drawn to the compound of claim 1 and at least one other compound;
Group V, claims 7-9, drawn to a method of treating gastrointestinal disorder and ulcers;
Group VI, claims 10-12, drawn to a method of improving gastroprotective properties;
Group VII, claim 13, drawn to a method of decreasing gastrointestinal toxicity and facilitating ulcer healing;
Group VIII, claims 14-15, drawn to a method of treating a microbial infection;
Group IX, claims 16-17, drawn to a method of treating ophthalmic disease;
Group X, claim 18, drawn to a method of treating multiple sclerosis;
Group XI, claims 19-21, drawn to a method for treating a viral infection;
Group XII, claims 22-31 and 50, drawn to a composition of claim 1 and another compound and a kit;
Group XIII, claims 32-34, drawn to a method for treating a gastrointestinal disorder and facilitating ulcer healing;
Group XIV, claims 35-37, drawn to a method for improving gastroprotective properties;
Group XV, claim 38, drawn to a method of decreasing gastrointestinal toxicity or facilitating ulcer healing;
Group XVI, claims 39-40, drawn to a method of treating a microbial infection;
Group XVII, claims 41-42, drawn to a method for treating ophthalmic disease;
Group XVIII, claim 43, drawn to a method for treating multiple sclerosis; and
Group XIX, claims 44-46, drawn to a method for treating a viral infection.

The examiner reasoned that the compounds of formulas I, II and III were patentably distinct from each other and that they were related to Groups V, VI, VII, VIII, IX, X and XI as product and process of use. Groups XII to XIX were also indicated as related as product and process of use.. The examiner also stated that Groups I, II or II(sic III) and IV or XII were related as combination/subcombination. The examiner also required an election of species.

Applicants replied on March 23, 2004, by traversing the restriction requirement and proposing an alternative restriction dividing the claims into three groups based solely on Formulas I, II and III. Applicants elected Group I and a species, as required.

The examiner mailed a first Office action on the merits to applicants on June 9, 2004. The examiner replied to the traverse, but maintained the requirement and made it Final. The examiner objected to claims 1-5 as containing non-elected subject matter and requested cancellation thereof. Claims 1-5 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 1-4 were rejected under 35 U.S.C. 102(b) as anticipated by Rice et al and by Montzka et al. Claims 1-5 were rejected under 35 U.S.C. 102(b) as anticipated by Franekic et al.

Applicants replied on September 9, 2004, amending the claims by deleting the compounds of Formulas II and III and responding to the rejections under 35 U.S.C. 112. Applicants replied appropriately to each of the other rejections of record.

The examiner mailed a Notice of Non-Compliant amendment to applicants on November 24, 2004, requesting correction of incorrect claim identifiers. Applicants replied with a corrected amendment on December 1, 2004.

Applicants filed this petition on September 9, 2004, concurrently with the amendment and response to the Office action.

DISCUSSION

Applicants' petition argues primarily that the claims should be examined together as they are all related by the formula of the composition. (Note, Groups II and III, due to cancellation of their formulas in the claims now under consideration, have been withdrawn from the traversal.) Applicants argue that the claims are all directed to nitrosated or nitrosylated H_2 receptor antagonist compounds and compositions comprising the same, as well as methods of use and kits for the compounds/compositions. Applicants argue that if the nitrosated or nitrosylated compounds are allowable then all of the compositions, methods of use and kits would also be allowable. Applicants, in essence, relate the compound claims to the other claims as subcombination/combination.

Applicants' arguments have been carefully considered as well as the examiner's reasoning. The examiner is essentially correct in identifying the claims as being subcombination/combination claims both for the compound and the method claims. As such the examiner is not in error in requiring restriction between compound/composition and method claims. However, the examiner should have indicated that upon allowance of elected compound/composition claims rejoinder of method claims including all of the limitations of the allowed compound composition claims would be effected. It is also well recognized that different conditions require different protocols of treatment with the same or similar compounds or compositions. Thus restriction between each of the conditions being treated, at least initially, is not improper. However, it is also reasonable to group all methods of treatment relating to gastrointestinal conditions (or other conditions) together absent some significant reasons not to do so. It is conventional to group compound, kit and composition claims together where the patentability is dependent on the compound. In view of the above it appears proper to modify the restriction requirement and reduce the number of groups as follows:

Group I – claims 1-2, 5-6 and 47, drawn to a compound/composition of formula I alone or with an NSAID and kit;

Group II, claims 7-13, drawn to a method of treating gastrointestinal conditions with the compound of claim 1 alone or with an additional agent;

Group III, claims 14-17, drawn to a method of treating microbial infections, including ophthalmic disorders, with the compound of claim 1;

Group IV, claim 18, drawn to a method of treating multiple sclerosis with the compound of claim 1;

Group V, claims 19-21, drawn to a method of treating a viral infection with the compound of claim 1;

Group VI, claims 22-31, 48-50, drawn to a second combination comprising the compound of formula I and a nitric oxide releasing agent;

Group VII, claims 32-38, drawn to a method of treating gastrointestinal disorders with the combination of claim 22 alone or with an additional agent;

Group VIII, claims 39-42, drawn to a method of treating microbial infections, including ophthalmic disorders, with the combination of claim 22;

Group IX, claim 43, drawn to methods of treating multiple sclerosis with the combination of claim 22; and

Group X, claims 44-46, drawn to methods of treatment of viral infections using the combination of claim 22.

DECISION

The petition is **GRANTED-IN-PART**. The restriction requirement is modified as above. Applicants' election remains in effect.

The application will be forwarded to the examiner for further action not inconsistent with this decision. The examiner is directed to consider rejoinder of method of use claims should the elected compound/composition claims become allowable according to the following:

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.**

Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 3

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

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APR 0 7 2003

OFFICE OF PETITIONS

In re
Jay Walker, James Jorasch and Thomas Sparico
Reissue Application No. 10/282,090
Deposited: October 28, 2002
Reissue of Patent No. 6,193,608
Original Issue Date: February 27, 2001
Attorney Docket No. WD2-96-168

DECISION ACCORDING STATUS
UNDER 37 C.F.R. § 1.47(a)

This is in response to the "Petition under 37 C.F.R. § 1.47(a) to Request Acceptance of National Application without Participation of One or More Inventors," filed October 28, 2002.

The petition under § 1.47 is **GRANTED**.

The above-identified reissue application of patent No. 6,193,608 (Issued February 27, 2001) was deposited on October 28, 2002, with a reissue declaration[1] executed by joint inventors Jay Walker and James Jorasch on behalf of themselves and on behalf of non-signing inventor Thomas Sparico. Accompanying this declaration was the instant petition under § 1.47[2], a written consent of assignee, and a statement under § 3.73(b). Applicants assert, in essence, that status under § 1.47 is proper because joint inventor Sparico has refused to join in the application after having been presented with the application papers.

By affidavits of patent attorney Steven M. Santisi, patent paralegal Michael D. Brinton, and chief operating officer Jose Suarez, rule 47 applicants have shown that inventor Sparico has refused to join in the instant reissue application after having been presented with the application papers.

---

[1] 37 CFR 1.172 (a) provides that:

A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of §3.73(b) of this chapter.

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

The declaration and the petition, both filed October 28, 2002, have been reviewed and found in compliance with 37 C.F.R. § 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 returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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6/30/03

Oliff and Berridge PLC
P O Box 19928
Alexandria VA 22320

Dear Applicant:

The Box PGPub replacement drawings for application number 10/282,110 received on 5/30/03 by the U. S. Patent and Trademark Office will be included for patent publication.

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

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Signature of Reviewer, Office of Initial Patent Examination

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE NW
WASHINGTON DC 20005

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Park, et al.	:	
Application No. 10/282,228	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. 1349.1109	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 4, 2008.

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

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action mailed August 1, 2007. This Office action set a shortened statutory period for reply of three (3) months. No response having been received, the application became abandoned on November 2, 2007. A Notice of Abandonment was mailed on February 21, 2008.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not submitted a copy of a master docket record showing where the Office action would have been entered had it been received and docketed, nor has petitioner stated that such a record does not exist. Rather, the docket record submitted is only a copy of the records for the instant application.

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); 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.

---

[1] MPEP 711.03(c).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 0 9 2008

OFFICE OF PETITIONS

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE NW
WASHINGTON DC 20005

In re Application of	:	
Park, et al.	:	
Application No. 10/282,228	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. 1349.1109	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 21, 2008.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action mailed August 1, 2007. This Office action set a shortened statutory period for reply of three (3) months. No response having been received, the application became abandoned on November 2, 2007. A Notice of Abandonment was mailed on February 21, 2008. Applicants filed a petition to withdraw the holding of abandonment on March 4, 2008, asserting that they did not received the final Office action. However, because applicants did not submit a copy of a master docket record, the petition was dismissed in a decision mailed on March 31, 2008.

With the instant renewed petition, petitioner has submitted a copy of a master docket record showing all of his replies docketed for the date of November 1, 2007. An entry for the instant application is absent, supporting the conclusion that the final Office action was not received.

The matter is being forwarded to Group Art Unit 2112 for re-mailing of the August 1, 2007 Office action, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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JUL 2 8 2008

In re Application of	:	
KIMURA, Hajime	:	
Application No. 10/282,234	:	DECISION GRANTING PETITION
Filed: October 29, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **0756-7067**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 24, 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 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST
POTOMAC FALLS, VA 20165

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JAN 16 2009

In re Application of	:
Hajime Kimura	:
Application No. 10/282,234	: DECISION GRANTING PETITION
Filed: October 29, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7067	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 12, 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
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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ALEXANDRIA, VA 22313-1450
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FITCH, EVEN, TABIN & FLANNERY
SUITE 401L
1801 K STREET, NW
WASHINGTON DC 20006-1201

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OCT 18 2006
OFFICE OF PETITIONS

In re Application of	:	DECISION ON APPLICATION
Michael Horn	:	FOR
Application No. 10/282,252	:	PATENT TERM ADJUSTMENT
Filed: October 29, 2002	:	AND
Atty Docket No. 7601/73479	:	**NOTICE OF ABANDONMENT**
	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Calculation," filed June 12, 2006. Applicant files this request to point out that the patent will issue more than 3 years from the relevant filing date, and thus, may be entitled to additional term at the time of issuance and wishes to reserve the right to file a request for additional term adjustment at that time.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

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

Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

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

The application file is being forwarded to the Office of Patent Publication for matching with any issue fee payment received and issuance of the patent, if the issue fee payment has been received. Otherwise, the Office of Patent Publication will mail a notice of abandonment[1]. It is noted that the undersigned's review of the record does not reveal that the issue fee payment has been received. If the issue fee payment was not timely filed, the application is abandoned and revival of the application will be required for issuance of the patent. See 37 CFR 1.137.

If the patent issues, 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

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[1] Regardless of whether the notice is mailed, if the issue fee payment has not been timely filed, the application will be abandoned effective August 13, 2006 by operation of law. See 35 USC 151.

the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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KEVIN J. MORIARTY
PATENT DEPARTMENT
DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265-8098

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of :
Richard Wubbels et al :
Application No. 10/282,273 : ON PETITION
Filed: October 28, 2002 :
Attorney Docket No. 09088-US :

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

The petition is **GRANTED**.

The above-identified application became abandoned 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 15, 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 16, 2005. See MPEP 1215.04.

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

This matter is being referred to Technology Center AU 3671 for processing of the request for continued examination under 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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George A. Coury
BACHMAN & LaPOINTE, P.C.
Suite 1201
900 Chapel Street
New Haven, CT 06510-2802

Mail Date: 08/02/2010

Applicant	: Dominique Petit	: DECISION ON REQUEST FOR
Patent Number	: 7651516	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/282,278	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1533** 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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CANTOR, COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT. 06103

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Franciszek Barwacz	:	
Application No. 10/282,280	:	DECISION ON PETITION
Filed: October 28, 2002	:	
Attorney Docket No. CAO-0384	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 5, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 6, 2006. *See* MPEP 1215.04.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief; (2) the petition fee of $1540.00; 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 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 Thurman K. Page at (571) 272-0602.

This application is being referred to Technology Center AU 2837 for appropriate action.

Dave Bucci
Petitions Examiner
Office of Petitions

cc: Daniel Drexler
55 Griffin Road South
Bloomfield, CT 06002

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NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Michael E. O'Donnell, et al. :
Application No. 10/282,287 :
Filed: October 28, 2002 :
Attorney Docket No. 22221/1008 (RU 371) (HHMI: ON PETITION

This is a decision on the petition, filed January 28, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(6), filed January 28, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment..

The petition are **GRANTED**.

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

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

Petitioner is advised that the issue fee paid on December 30, 2008, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

As to the petition under 37 CFR 1.78(a)(6):

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

[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).

specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the non-provisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application(s). 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(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. 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 1645 for further processing of the RCE, including 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDGAR SPIELMAN
ALBEMARLE CORPORATION
451 FLORIDA BLVD.
BATON ROUGE, LA 70801

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of	:
Christopher J. Nalepa	:
Application No. 10/282,290	: DECISION GRANTING PETITION
Filed: October 28, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SU-7073-N	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The rule pertaining to the associate power of attorney practice has been eliminated effective June 25, 2004. *See* Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865. Accordingly, the paper will be placed in the file record, but the names of the practitioners associated with Customer Number 23416 have not been made of record.

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

This matter is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Paper No. 11

Philip M. Pippenger
Law Department, Albemarle Corporation
451 Florida Street
Baton Rouge, LA 70801-1765

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FEB 19 2004

OFFICE OF PETITIONS

In re Application of	:
Christopher J. Nalepa	:
Application No. 10/282,291	: DECISION GRANTING PETITION
Filed: October 28, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. SU-7073-P	:

This is a decision on the petition, filed February 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 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) 305-8680.

Upon receipt of the file in the Office of Petitions, the file 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.

Frances Hicks

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

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

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Paper No. 16

EDGAR SPIELMAN
ALBEMARLE CORPORATION
451 FLORIDA BLVD.
BATON ROUGE, LA 70801

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OCT 26 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Christopher J. Nalepa :
Application No. 10/282,291 :
Filed: October 28, 2002 :
Attorney Docket No. SU-7073-P :

This is a decision on the petition, filed October 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDGAR SPIELMAN
ALBEMARLE CORPORATION
451 FLORIDA BLVD.
BATON ROUGE, LA 70801

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SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of	:
Christopher J. Nalepa	:
Application No. 10/282,291	: DECISION GRANTING PETITION
Filed: October 28, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SU-7073-P	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The rule pertaining to the associate power of attorney practice has been eliminated effective June 25, 2004. *See* Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865. Accordingly, the paper will be placed in the file record, but the names of the practitioners associated with Customer Number 23416 have not been made of record.

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

This matter is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDGAR SPIELMAN
ALBEMARLE CORPORATION
451 FLORIA BLVD.
BATON ROUGE, LA 70801

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OFFICE OF PETITIONS

In re Application of	:
Christopher J. Nalepa	:
Application No. 10/282,291	: DECISION GRANTING PETITION
Filed: October 28, 2002	: UNDER 37 CFR 1.313(a)
Attorney Docket No. SU-7073-P	:

This is a decision on the petition, filed February 2, 2006, which is being treated as a petition under 37 CFR 1.313(a) to withdraw the above-identified application from issue prior to payment of the issue fee.

The petition is **DISMISSED** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on November 21, 2005, with the issue fee being due on or before February 21, 2006. There is no indication that a reply to the Notice of November 21, 2005 has been received.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP 706.07(h)(IX).

It does not appear from the record that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mr. John F. Sieberth appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If Mr. Sieberth desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Sieberth, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 1616 for appropriate processing of the RCE filed February 2, 2006, and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

John F. Sieberth
Sieberth & Patty, LLC
4703 Bluebonnet Boulevard
Baton Rouge, LA 70809

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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WILLIAM L. RENFRO
1431 THIRTY THIRD STREET., NW
WASHINGTON, DC 20007

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APR 2 5 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of :
William Leonard Renfro :
Application No. 10/282,300 :
Filed: October 29, 2002 :
Title of Invention: CONTINUOUS SECURITY SYSTEM :

This is a decision on the letter filed August 12, 2004 which is treated as a petition 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".

The application was held abandoned on April 5, 2004, for failure to file a timely reply to the non-Final Office Action mailed January 2, 2004, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed on August 9, 2004.

Petitioner asserts that a response was hand delivered on June 2, 2004 and while a copy of the amendment is of record with a receipt date of June 2, 2004, there is no proof that an extension of time request was filed with the appropriate extension of time fees.

The petition to withdraw the holding of abandonment cannot be granted until such time as proof that an extension of time was properly requested and paid for.

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

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

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APR 29 2003
OFFICE OF PETITIONS

In re Application of
Kurt H. Weiner, et al.
Application No. 10/282,322
Filed: October 17, 2002
Attorney Docket No. KLA1P056/P911

DECISION GRANTING PETITION

This is a decision on the "Petition to Accord Filing Date...", filed January 21, 2003, requesting that the above-identified application be accorded a filing date of October 17, 2002, instead of the presently accorded date of October 18, 2002.

Petitioners allege that the application was deposited in "Express Mail" service with the U. S. Postal Service, on October 17, 2002. In support, petitioner provides, inter alia, a copy of the Express Mail label, receipt no. EL 937781035 US, showing a handwritten "Date-In" of "10/17/02", as well as an US Postal Service receipt stamp dated "OCT 17 2002". The same Express Mail receipt number is referred to in the original application papers found in the file. Petitioners request that the application be accorded a filing date of October 17, 2002.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 17, 2002.

The petition is GRANTED.

The application is being returned to Initial Patent Examination Division (OIPE) for correction of the filing date to **October 17, 2002**.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-20-06

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/282325 Patent No. 7105673

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 Ref. cited other Publications

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. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Thomas McKelvey — SPE

1625 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,105,673 B2 PAGE 1 of 3

DATED : September 12, 2006

INVENTOR(S) : Haque, W.

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

Page 3

OTHER PUBLICATIONS

Manore, M. et al., "Changes In Plasma Pyridoxal Phosphate (PLP) In Diabetic (D), Hypertensive (HTN) and Hypertensive-diabetic (HTN-D) Men Fed A Constant Vitamin B-6 (B6) Diet", *Source Unknown*, pp. 1254 (Date Unknown).

Markov, A. et al, "Hemodynamic, electrocardiographic, and metabolic effects of fructose diphosphate on acute myocardial ischemia", *American Heart Journal*, Vol. 100, No. 5, pp. 639 - 646 (November 1980)

Mendelsohn, A. et al., "Hemodynamic and Clinical Effects of Oral Levodopa in Children With Congestive Heart Failure", *JACC*, Vol. 30, No. 1, pp. 237-242 (July 1997).

Merrill, Jr. et al. A. et al., "Diseases associated with defects in vitamin B_6 metabolism or utilization", *Ann. Rev. Nutr.*, Vol. 7, pp. 137-156 (1987)

Vidrio, H., "Interaction with Pyridoxal as a Possible Mechanism of Hydralazine Hypotension", *Journal of Cardiovascular Pharmacology*, Vol. 15, pp. 150-156 (1990).

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Windebank, A., "Neurotoxicity of Pyridoxine Analogs Is Related to Coenzyme Structure", *Neurochemical Pathology*, Vol. 3, pp. 159-167 (1985)

Yarat, A. et al., "Effect of vitamin B6 on lenses of diabetic rats", *Indian Journal of Experimental Biology*, Vol. 36, pp. 1269-1272 (December 1998)

Yan, S. et al., "A Role for Pyridoxal Phosphate in the Control of Dephosphorylation of Phosphorylase *a*", *J. of Biological Chem.*, Vol. 254, No. 17, pp. 8263-8269 (September 10, 1979).

Zempleni, J. et al., "The utilization of intravenously infused pyridoxine in humans", *Clinica Chimica Acta*, Vol. 229, Nos. 1, 2, pp. 27-36 (September 1994)

should read --

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Mendelsohn, A. et al., "Hemodynamic and Clinical Effects of Oral Levodopa in Children With Congestive Heart Failure", *JACC*, Vol. 30, No. 1, pp. 237-242 (July 1997).

Merrill, Jr. et al. A. et al., "Diseases associated with defects in vitamin B_6 metabolism or utilization", *Ann. Rev. Nutr.*, Vol. 7, pp. 137-156 (1987)

MAILING ADDRESS OF SENDER:
Merchant & Gould P.C.
Attn: Brian R. Dorn, Ph.D.
P.O Box 2903
Minneapolis, MN 55402-0903

PATENT NO. US 7,105,673 B2

Docket No. 12695.0009USD2

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PATENT TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,105,673 B2 PAGE 2 of 3

DATED : September 12, 2006

INVENTOR(S) : Haque, W.

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

Miura, R. et al., "Reactions of Phosphonate Analogs of Pyridoxal Phosphate with Apo-aspartate Aminotransferase", *Archives of Biochemistry and Biophysics*, Vol. 270, No. 2, pp. 526-540 (1989).

Mulvancy, D. et al., "Electrocardiographic changes in vitamin B_6 deficient rats", *Cardiovascular Research*, Vol. 13, pp. 506-513 (1979).

Omenn, G. et al., "Preventing Coronary Heart Disease", *Circulation*, Vol. 97, pp. 421-424 (1998)

Paulose, C. et al., "Sympathetic Stimulation and Hypertension in the Pyridoxine-Deficient Adult Rat", *Hypertension*, Vol. 11, No. 4, pp. 387-391 (April 1988)

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Rimm, E. et al., "Folate and Vitamin B_6 From Diet and Supplements in Relation to Risk of Coronary Heart Disease Among Women", *JAMA*, Vol. 279, No. 5, pp. 359-364 (February 4, 1998)

Sakuragi, T. et al., "The Synthesis of Long Chain Fatty Acid Derivatives of the Vitamin B_6 Group", *J. Am. Chem. Soc.*, Vol. 78, pp. 839-842 (February 20, 1956)

Sethi, R. et al., "Differential changes in left and right ventricular adenylyl cyclase activities in congestive heart failure", *The American Physiological Society*, Vol. 272, No. 2, Part 2 of Two Parts, pp. H884 - H893 (February 1997)

Sethi, R. et al., "Inotropic Responses to Isoproterenol in Congestive Heart Failure Subsequent to Myocardial Infarction in Rats", *Journal of Cardiac Failure*, Vol. 1, No. 5, pp. 391 - 399 (December 1995)

Stirtan, W. et al., "Phosphonate and α-Fluorophosphonate Analogue Probes of the Ionization State of Pyridoxal 5'-Phosphate (PLP) in Glycogen Phosphorylase", *Biochemistry*, Vol. 35, No. 47, pp. 15057-15064 (1996).

Takuma, Y. et al., "Combination Therapy of Infantile Spasms With High-Dose Pyridoxal Phosphate and Low-Dose Corticotropin", *Journal of Child Neurology*, Vol. 11, No. 1, pp. 35-40 (January 1996).

Tanaka, T. et al., "Pyridoxine Derivatives", *Chemical Abstracts*, Vol. 62, No. 12, 1 page (June 7, 1965)

Tomita, I. et al., "Synthesis of Vitamin B_6 Derivatives. II 3-Hydroxy-4-Hydroxymethyl-2-Methyl-5-Pyridine Acetic Acid and Related Substances", *Dept. of Biochem. and Biophys., Iowa State Univ.*, Vol. 3, pp. 178-183 (March 19, 1966).

Trezise, D. et al., "P_2 purinoceptor antagonist properties of pyridoxal-5-phosphate", *Eur. J. Pharmacol.*, Vol. 259, No. 3, pp. 295-300 (July 11, 1994)

Vanderjagt, D. et al., "Vitamin B_6 Status in a Healthy Elderly Population", *Annals New York Academy of Sciences"*, pp. 562 - 564 (date unknown)

Verhoef, P. et al., "A Common Mutation in the Methylenetetrahydrofolate Reductase Gene and Risk of Coronay Heart Disease: Results Among U.S. Men", *JACC*, Vo. 32, No. 2, pp. 353 -359 (August 1998)

Verhoef, P. et al., "Homocysteine Metabolism and Risk of Myocardial Infarction: Relation with Vitamins B_6, B_{12}, and Folate", *Am. J. Epidemiol.*, Vol. 143, No. 9, pp. 845-859 (May 1, 1996)

MAILING ADDRESS OF SENDER:
Merchant & Gould P.C.
Attn: Brian R. Dorn, Ph.D.
P.O. Box 2903
Minneapolis, MN 55402-0903

PATENT NO. US 7,105,673 B2

Docket No. 12695.0009USD2

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,105,673 B2 PAGE 3 of 3

DATED : September 12, 2006

INVENTOR(S) : Haque, W.

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

Vermaak, W.J.H. et al., "Vitamin B_6 and coronary artery disease. Epidemiological observations and case studies", *Atherosclerosis*, Vol. 63, pp. 235-238 (February 1987)

Vidrio, H., "Interaction with Pyridoxal as a Possible Mechanism of Hydralazine Hypotension", *Journal of Cardiovascular Pharmacology*, Vol. 15, pp. 150-156 (1990).

Viscontini, V. et al., "Über einige Derivate des Pyridoxals", *Helvetica Chimica Acta*, Vol. 34, No. 296, pp. 2438-2439 (1951)

Windebank, A., "Neurotoxicity of Pyridoxine Analogs Is Related to Coenzyme Structure", *Neurochemical Pathology*, Vol. 3, pp. 159-167 (1985)

Yarat, A. et al., "Effect of vitamin B6 on lenses of diabetic rats", *Indian Journal of Experimental Biology*, Vol. 36, pp. 1269-1272 (December 1998)

Yan, S. et al., "A Role for Pyridoxal Phosphate in the Control of Dephosphorylation of Phosphorylase *a*", *J. of Biological Chem.*, Vol. 254, No. 17, pp. 8263-8269 (September 10, 1979).

Zempleni, J. et al., "The utilization of intravenously infused pyridoxine in humans", *Clinica Chimica Acta*, Vol. 229, Nos. 1, 2, pp. 27-36 (September 1994)

Columns 34-35 - APPENDIX A

APPENDIX A listing attorney names should be deleted from the patent

Column 35

Line 57 "CH_{2_O}" should read --CH_2O--

MAILING ADDRESS OF SENDER:
Merchant & Gould P.C.
Attn: Brian R. Dorn, Ph.D.
P.O. Box 2903
Minneapolis, MN 55402-0903

PATENT NO. US 7,105,673 B2

Docket No. 12695.0009USD2

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PATENT TRADEMARK OFFICE

FORM 1050

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-20-06

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/282325 Patent No. 7105673

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 Ref. cited other Publications

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. 117

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: _____

Thomas McKelvie — SPE

1625 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,105,673 B2 PAGE 1 of 3

DATED : September 12, 2006

INVENTOR(S) : Haque, W.

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Page 3

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Windebank, A., "Neurotoxicity of Pyridoxine Analogs Is Related to Coenzyme Structure", *Neurochemical Pathology*, Vol. 3, pp. 159-167 (1985)

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Mendelsohn, A. et al., "Hemodynamic and Clinical Effects of Oral Levodopa in Children With Congestive Heart Failure", *JACC*, Vol. 30, No. 1, pp. 237-242 (July 1997).

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MAILING ADDRESS OF SENDER:
Merchant & Gould P.C.
Attn: Brian R. Dorn, Ph.D.
P.O Box 2903
Minneapolis, MN 55402-0903

PATENT NO. US 7,105,673 B2

Docket No. 12695.0009USD2

No. of add'l copies 0

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PATENT TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,105,673 B2 PAGE 2 of 3

DATED : September 12, 2006

INVENTOR(S) : Haque, W.

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Mulvaney, D. et al., "Electrocardiographic changes in vitamin B_6 deficient rats", *Cardiovascular Research*, Vol. 13, pp. 506-513 (1979).

Omenn, G. et al., "Preventing Coronary Heart Disease", *Circulation*, Vol. 97, pp. 421-424 (1998)

Paulose, C. et al., "Sympathetic Stimulation and Hypertension in the Pyridoxine-Deficient Adult Rat", *Hypertension*, Vol. 11, No. 4, pp. 387-391 (April 1988)

Rao, R. et al., "Failure of Pyridoxine to Improve Glucose Tolerance in Diabetics", *Journal of Clinical Endocrinology & Metabolism*, Vol. 50, No. 1, pp. 198-200 (January 1980).

Rimm, E. et al., "Folate and Vitamin B_6 From Diet and Supplements in Relation to Risk of Coronary Heart Disease Among Women", *JAMA*, Vol. 279, No. 5, pp. 359-364 (February 4, 1998)

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Takuma, Y. et al., "Combination Therapy of Infantile Spasms With High-Dose Pyridoxal Phosphate and Low-Dose Corticotropin", *Journal of Child Neurology*, Vol. 11, No. 1, pp. 35-40 (January 1996).

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Trezise, D. et al., "P_2 purinoceptor antagonist properties of pyridoxal-5-phosphate", *Eur. J. Pharmacol.*, Vol. 259, No. 3, pp. 295-300 (July 11, 1994)

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MAILING ADDRESS OF SENDER:
Merchant & Gould P.C.
Attn: Brian R. Dorn, Ph.D.
P.O. Box 2903
Minneapolis, MN 55402-0903

PATENT NO. US 7,105,673 B2

Docket No. 12695.0009USD2

No. of add'l copies 0

23552
PATENT TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,105,673 B2 PAGE 3 of 3

DATED : September 12, 2006

INVENTOR(S) : Haque, W.

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

Vermaak, W.J.H. et al., "Vitamin B_6 and coronary artery disease. Epidemiological observations and case studies", *Atherosclerosis*, Vol. 63, pp. 235-238 (February 1987)

Vidrio, H., "Interaction with Pyridoxal as a Possible Mechanism of Hydralazine Hypotension", *Journal of Cardiovascular Pharmacology*, Vol. 15, pp. 150-156 (1990).

Viscontini, V. et al., "Über einige Derivate des Pyridoxals", *Helvetica Chimica Acta*, Vol. 34, No. 296, pp. 2438-2439 (1951)

Windebank, A., "Neurotoxicity of Pyridoxine Analogs Is Related to Coenzyme Structure", *Neurochemical Pathology*, Vol. 3, pp. 159-167 (1985)

Yarat, A. et al., "Effect of vitamin B6 on lenses of diabetic rats", *Indian Journal of Experimental Biology*, Vol. 36, pp. 1269-1272 (December 1998)

Yan, S. et al., "A Role for Pyridoxal Phosphate in the Control of Dephosphorylation of Phosphorylase *a*", *J. of Biological Chem.*, Vol. 254, No. 17, pp. 8263-8269 (September 10, 1979).

Zempleni, J. et al., "The utilization of intravenously infused pyridoxine in humans", *Clinica Chimica Acta*, Vol. 229, Nos. 1, 2, pp. 27-36 (September 1994)

Columns 34-35 - APPENDIX A

APPENDIX A listing attorney names should be deleted from the patent

Column 35

Line 57 "CH_{2_O}" should read --CH_2O--

MAILING ADDRESS OF SENDER:
Merchant & Gould P.C.
Attn: Brian R. Dorn, Ph.D.
P.O. Box 2903
Minneapolis, MN 55402-0903

PATENT NO. US 7,105,673 B2

Docket No. 12695.0009USD2

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FORM 1050

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FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN ME 04444-0726

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JUN 15 2007

OFFICE OF PETITIONS

In re Patent No. 7,050,894	:	DECISION ON REQUEST FOR
Halm, et al.	:	RECONSIDERATION OF
Issued: May 23, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/282,329	:	& NOTICE OF INTENT TO ISSUE
Filed: October 28, 2002	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 4417	:	

This letter is in response to the " 'GOOD FAITH' REQUEST FOR REVIEW OF PTA DETERMINATION," filed September 12, 2006. Pursuant to patentees' duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) 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 **forty-nine (49)** days.

On September 12, 2006, patentees submitted the instant comment. On May 23, 2006, the above-identified application matured into U.S. Patent No. 7,050,894, with a revised patent term adjustment of 50 days. Patentees request review of the patent term adjustment because applicants filed a response to a December 9, 2003 non-final Office action on June 9, 2004, not June 8, 2004, as is indicated in the Office's Patent Term Adjustment History.

A review of the application history confirms that an incorrect number of days was determined for applicants delay in responding to the December 9, 2003 non-final Office action. Specifically, a period of adjustment of 84 days was entered for applicants delay in taking action in response to the December 9, 2003 non-final Office action. However, a review of the application file reveals that applicants' response was filed via facsimile on June 9, 2004, not June 8, 2004. Therefore, applicant's delay in responding to the December 9, 2003 non-final Office action should have been 85 days, not 84 days.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of forty-nine (49) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the 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 **forty-nine (49)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: copy of DRAFT certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,050,894 B2

DATED : May 23, 2006

INVENTOR(S) : Halm et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (50) days

Delete the phrase "by 50" and insert – by 49 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John C. Han
Ericsson Inc.
6300 Legacy Drive MS/EVW2C2
Plano, TX 75024

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Luis	:	
Application No. 10/282,344	:	DECISION ON
Filed: January 7, 2003	:	PETITION
Attorney Docket No. P14986	:	

This is a decision on the petition filed January 7, 2003, to accord the above-identified application a filing date of October 29, 2002.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

On October 29, 2002, the application was deposited.

On December 19, 2002, the Office of Initial Patent Examination mailed a Notice stating that a specification was not present and that a filing date had not been accorded and the filing date would be the date of receipt of a specification.

In response, the present petition was filed along with a copy of a specification which was intended to be filed with the original application. Petitioner requests a filing date of October 29, 2002, but fails to discuss why petitioner is entitled to such a filing date since a specification was not filed until January 7, 2003. It should be noted that the prior application was not properly incorporated by reference.[1]

A review of financial records indicates petitioner's deposit account was charged $130 for the late submission of the declaration. However, the declaration was submitted on the filing date- January 7, 2003- and is therefore not late. The $130 fee will be credited to petitioner's deposit account. The filing fee for a large entity was increased to $750 from $740 on January 1, 2003. Therefore, the additional sum of $10 will be charged to petitioner's deposit account.

---

[1] See In re de Seversky, 474 F.2d 671, 674, 177 U.S.P.Q. (BNA) 144 (C.C.P.A. 1971) ("To be sure, the statement that an application is a continuation-in-part, or a continuation, or a division, . . . is in a broad sense a 'reference' to the earlier application, but a mere reference to another application, or patent, or publication is not an incorporation of anything therein into the application containing such reference for the purposes of the disclosure required by 35 USC § 112."); Dorchy v. Kansas, 272 U.S. 306, 311, 71 L. Ed. 248, 268, 47 S. Ct. 86, 87 (1926) ("Mere reference to [another case] by the court as a controlling decision did not incorporate its record into that of the case at bar.") (citing Pacific R.R. Co. v. Missouri Pacific Ry. Co., 111 U.S. 505, 517-518, 28 L. Ed. 498, 4 S. CT. 583 (1884)); Martin v. Martin, 687 So. 2d 903, 906-907 (Fla. 4th Dist. Ct. App. 1997) (A mere reference to another document is insufficient to incorporate by reference.) (citations omitted).

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

If a request of reconsideration is not timely filed, the file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of January 7, 2003, the date the missing parts were supplied, using the application papers filed on October 29, 2002, and the specification filed on January 7, 2003. The Office of Petitions anticipates that OIPE will object to the format of the specification; for example, the specification has print on both sides of the individual pieces of paper.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Oscar E. Agazzi	:	
Application No. 10/282,447	:	DECISION GRANTING PETITION
Filed: October 29, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 13479US03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 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 Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply of December 4, 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 2611.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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STEVEN I. WEISBURD
DICKENSTEIN SHAPIRO MORIN & OSHINSKY
1177 AVENUE OF THE AMERICAS
41ST FLOOR
NEW YORK NY 10036-2714

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OFFICE OF PETITIONS

In re Application of	:	
Toshifumi Sato	:	
Application No. 10/282,449	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. N0029.1636/P1636	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 27, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2685 will consider the request for continued examination under 37 CFR 1.114.

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

---

[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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MOTOROLA, INC.
LAW DEPARTMENT
1303 E. ALGONQUIN ROAD
SCHAUMBURG, IL 60196

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OFFICE OF PETITIONS

In re Application of :
James Scott Marin :
Application No. 10/282,467 : ON PETITION
Filed: October 29, 2002 :
Attorney Docket No.: IRI05458 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 30, 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 prior to the abandonment of the application, this application became abandoned October 1, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Additionally, the record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on March 1, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-2117.

---

[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 2617 for appropriate action on the amendment filed March 1, 2006.

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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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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AUG 2 6 2008

In re Application of	:	
Elias	:	
Application No. 10/282,506	:	DECISION ON PETITION
Filed: 28 October, 2002	:	
Attorney Docket No. 061064-0003US	:	

This is a decision on the petition, filed 13 June, 2007, which is being treated as a petition under 37 C.F.R. §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 requires publication of applications eighteen-months after filing. *See* 37 C.F.R. §1.137(f).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on 13 June, 2003 (with subsequent filings on 3 October, 16 October, 17 October, 27 October, 28 October and 29 October, 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. Therefore, pursuant to the provisions of 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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 C.F.R. §1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country 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 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(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. §122(b)(2)(B)(iii) 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 cannot be generated at this writing.

This application is being released to Technology Center/AU 3688 for examination in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the decision has been acknowledged by the Technology Center/AU. It is noted that all inquiries with regard to substantive examination need be directed to the Technology Center/AU where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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IP DEPARTMENT OF PIPER RUDNICK LLP
ONE LIBERTY PLACE, SUITE 4900
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PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of
Yoshihiro Yazawa et al
Application No. 10/282,535
Filed: October 29, 2002
Attorney Docket No. 1412-02

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed June 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1742 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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DEC 20 2004

WYETH PATENT LAW GROUP
FIVE GIRALDA FARMS
MADISON, NJ 07940

#10

In re Application of	:
John A. Butera et al	:
Serial No.: 10/282,540	: PETITION DECISION
Filed: October 29, 2002	:
Attorney Docket No.: 16156-033001	:

This is in response to the petition under 37 CFR 1.181, filed September 7, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on August 6, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed March 24, 2004. Applicants state that a reply was submitted on February 5, 2004, with a request and fee for a three month extension of time and provide an Office date stamped postcard evidencing receipt thereof on February 5, 2004. In view of the evidence presented, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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KING & JOVANOVIC, PLC
170 COLLEGE AVENUE
SUITE 230
HOLLAND MI 49423

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Rainer Hahn et al	:	
Application No. 10/282,543	:	
Filed: October 29, 2002	:	
Attorney Docket No. OST-021151	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 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 13, 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 14, 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 1614.

Karen Creasy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:206

DATE : February 22, 2006

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction on Patent No.: 6,942,375

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:

STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE: Steven Griffin **Art Unit** 1723

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K-6-1 1990
KENILWORTH, NJ 07033-0530

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OFFICE OF PETITIONS

In re Application of	:	
Anatoliy Goldman	:	
Application No. 10/282,583	:	DECISION ON PETITION
Filed: October 29, 2002	:	TO WITHDRAW
Attorney Docket No. HCI0467P0760US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 29, 2005.

The request is **NOT APPROVED**.

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 below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: INTELLECTUAL PROPERTY
ALCOA TECHNICAL CENTER, BUILDING C
100 TECHNICAL DRIVE
ALCOA CENTER PA 15069-0001

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OFFICE OF PETITIONS

In re Application of	:	
SOLAR, et al.	:	
Application No. 10/282,584	:	DECISION ON PETITION
Filed: October 29, 2002	:	TO WITHDRAW
Attorney Docket No. **50741-000013/US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2007.

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

A review of the file record indicates that the power of attorney to **SCHWEGMAN LUNDBERG & WOESSNER, PA** has been revoked by the assignee of the patent application on December 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HARNESS DICKEY & PIERCE, PLC**
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Matthew S. Solar	: DECISION ON REQUEST FOR
Patent Number	: 7575571	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/282,584	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1456** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of :
Xiao-Jun Ma et al. :
Application No. 10/282,596 : ON PETITION
Filed: October 28, 2002 :
Attorney Docket No: 485772004321

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed April 25, 2005 setting a three month shortened statutory period for reply. No response or request for an extension of time having been filed in this application prior to the expiration of the time set for reply, this application became abandoned July 26, 2005. Accordingly, a Notice of Abandonment was mailed February 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application

---

[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)).

is again abandoned in favor of continuation application no.11/381,353 filed May 2, 2006, pursuant to the provisions of 37 CFR 1.53(b).

Additionally, the record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time fee submitted with the petition on May 2, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 20-1430.

This matter is being referred to Technology Center 1631 for processing of the continuation application filed May 2, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JUL 27 2005

In re Application of
Julius Cassani
Application No. 10/282,598
Filed: October 29, 2002
Attorney Docket No. 209546-81683

: DECISION ON PETITION

This is a decision on the petition filed on June 24, 2005 by which petitioners request Group Director review of the decision that the amendment filed February 8, 2005 is not fully responsive to the prior Office action. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is denied.

A review of the record shows that the instant application was filed with independent claims 1, 3 and 6 where claims 1 and 3 were directed to the embodiment of figures 1-9 and claim 6 was generic to all embodiments, including figure 10. An office action on the merits treating all claims was sent on December 10, 2003. An amendment filed March 4, 2004 having independent claims 1, 3 and 6 where claims 1 and 3 were directed to the embodiment of figures 1-9 and claim 6 was generic to all embodiments was entered and a final rejection was promulgated on April 21, 2004. On August 23, 2004, an amendment after final was filed which included independent claims 1, 3 and 6 that were directed to the embodiment of figure 10 only. An advisory action dated September 28, 2004 indicated that the amendment after final of August 23, 2004 would not be entered. In response, an RCE with an amendment was filed on October 21, 2004, which included independent claims 1, 3 and 6 that were directed to the embodiment of figure 10 only. In response, a communication dated January 21, 2005 stated that this amendment was not fully responsive because all of the claims pertain to a different invention. An amendment filed February 11, 2005 having independent claims 1, 3 and 6 directed to the embodiment of figure 10 only was submitted. In response, a second communication dated May 6, 2005 stated that the amendment of February 11, 2005 was not fully responsive as all of the claims are directed to a specie (figure 10) that was different from the specie (figures 1-9) previously claimed.

MPEP § 706.07 (h) (VI) (B) reads:

> (B) Presentation of claims for different invention - Applicants cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., applicant cannot switch inventions). See 37 CFR 1.145. If an RCE is filed with an amendment canceling all claims drawn to the elected invention and presenting only claims drawn to a nonelected invention, the RCE should be treated as a proper RCE but the amendment should not be entered. The amendment is not fully responsive and applicant should be given a time period of one month or thirty days (whichever is longer) to submit a complete reply. See MPEP § 821.03.

37 CFR § 1.145 Subsequent presentation of claims for different invention states:

> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144

MPEP § 821.03 reads in pertinent part:

> An amendment canceling all claims drawn to the elected invention and presenting only claims drawn to the nonelected invention should not be entered. Such an amendment is nonresponsive.

MPEP § 806.04(f) reads:

> Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species.

37 CFR § 1.181(f) reads in pertinent part:

> **Petition to the Director.**
>
> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. ...

It is clear from the above cited statute, regulations, and statement of practice appearing in MPEP § 821.03 that the amendment filed February 11, 2005 was properly held as not fully responsive as the claims in this amendment are directed to the invention of figure 10 only.

The previous claims, at the time of filing the instant application and in the amendment filed March 4, 2004, were drawn to the invention of figures 1-9 (independent claims 1 and 3) or generic to all inventions (independent claim 6). A restriction was never issued as the claims presented at the time of filing the application and in the amendment filed March 4, 2004 were directed towards only one species or invention (figures 1-9) or generic to all species (independent claim 6). As no claims were directed to the species of figure 10 only, a restriction was not proper as the claims to be restricted to different species must be mutually exclusive. As there were no claims drawn to the species of figure 10 only, a restriction was not proper as set forth in MPEP § 806.04(f). The claims filed in the amendment filed February 11, 2005, or the claims filed in the amendment and RCE of October 21, 2004 were properly held as not fully responsive according to MPEP § 821.03 and 706.07(h)(VI)(B).

Petitioner is entitled to file a request for reconsideration, without fee. Any request for reconsideration must be filed within two months of the date of this decision.

According to 37 CFR § 1.181(f), the period for reply to the communication mailed May 6, 2005 continues to run.

PETITION DENIED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Honigman Miller Schwartz and Cohn LLP
32270 Telegraph Road
Suite 225
Bingham Farms, MI 48025-2457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090805

DATE :

TO SPE OF : ART UNIT

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:

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071127

DATE : November 27, 2007

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 6/750,070 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
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:

Ha Nguyen

SPE: Ha T. Nguyen **Art Unit** 2829

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POLYDIMENSION, INC.
1173 E. 29TH STREET
BROOKLYN, NY 11210

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OFFICE OF PETITIONS

In re Application of :
ERICKSON, et al. :
Application No. 10/282,615 : DECISION ON PETITION
Filed: October 29, 2002 :
Attorney Docket No. **2001-02** :

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

The petition is **DISMISSED.**

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

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed October 26, 2004, 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 November 27, 2004.

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

The statement of unintentional delay is not considered at this time to be a properly submitted statement. In this regard, the petition containing the statement of unintentional delay is signed by Eliezer Sandler, who is one of the three applicants in

the above-identified application. Likewise, the election filed May 4, 2007 cannot be accepted. Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition containing the statement of unintentional delay and the election of the invention to be examined are not signed by all the inventors and the record herein fails to disclose that petitioner herein (Eliezer Sandler) was ever given a power of attorney to act on behalf of the other inventors, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), neither can be accepted.

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

> (1) the delay in reply that originally resulted in the abandonment;
>
> (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
>
> (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

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

As to Period (1):

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

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

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on November 27, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held

unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

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

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOEL N. BOCK
POLYDIMENSION, INC.
1173 E. 29TH STREET
BROOKLYN, NY 11210

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OFFICE OF PETITIONS

In re Application of
Ronald R. **ERICKSON, et al.**
Application No. 10/282,615
Filed: October 29, 2002
Attorney Docket No. **2001-02**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2008 and re-submitted May 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed October 26, 2004 , 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 November 27, 2004.

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election with a 2 month extension of time, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center Art Unit 2624 for appropriate action by the Examiner in the normal course of business on the reply received

Brian W. Brown
Petitions Examiner
Office of Petitions

10-7-08

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

Patent No. : 7,297,515
Inventor(s) : Szankasi, et. al.
Issued : November 20, 2007
For: NOVEL ZINC FINGER PROTEINS

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under Rule 1.322.

On the title page, item [54], in the title , it is the practice to exclude words such as "Improvements in", "A", "Novel", etc., from the printed patent.

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

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Myriad Genetics, Inc.
Intellectual Property Department
320 Wakara Way
Salt Lake City, Ut 84108

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH SOLOMON
THOMPSON COBURN
SUITE 3500
ONE US BANK PLAZA
ST. LOUIS, MO 63101-9928

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APR 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Malcolm J.W. Povey et al	:	
Application No. 10/282,626	:	NOTICE
Filed: October 29, 2002	:	
Attorney Docket No. 56010-36247	:	

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 2856.

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

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PARKER & DeSTEFANO
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CHARLOTTESVILLE, VA 22902

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of William A. Barr Jr. Application No. 10/282,662 Filed: October 29, 2002 Attorney Docket No. BARR-0001-UTY	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $700 issue fee; (2) the petition fee of $750; 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) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks

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

cc:

Sheldon H. Parker
10363-A Democracy Lane
Fairfax, VA 22030

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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DIRECTORS OFFICE

JUN 2 7 2006

TECHNOLOGY CENTER 2800

06232006

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

In re Application of	:	
WIECZOREK et al	:	DECISION ON PETITION
Application No. 10/282,720	:	
Filed: October 29, 2002	:	
Attorney Docket No. 2000.093700/DE 0102	:	

This is a decision on the petition under 37 C.F.R. § 1.181, filed September 29, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond to the non-final Office action within the shortened statutory period of three months from the mailing date of December 31, 2003.

Petitioner states that the non-final Office action was never received by applicant's representative. Shawn Smith, the docketing clerk at Williams, Morgan & Amerson, P.C. attests to the fact that a search of the file jacket and docket records indicate that the non-final Office action was not received. The petition is accompanied by a printout from the docketing database for the application.

A review of the written record indicates that the non-final Office action was returned by the United States Postal Service as undeliverable mail.

MPEP § 707.13 states the Office policy with regards to returned Office actions. Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The failure of the examiner to ascertain the correct correspondence address and to remail the non-final Office action was insufficient to hold the application abandoned.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action. The shortened statutory period for response set therein will be reset to run from the date the Office action is remailed. Extensions of time are available under 37 CFR § 1.136.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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IVAN S KAVRUKOV
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

COPY MAILED

APR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Hitoshi Yamamoto	:	
Application No. 10/282,728	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. 2271/68290	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 15, 2009

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

The above-identified application was held abandoned for failure to timely file a proper reply to the final Office action mailed June 28, 2007. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on September 21, 2007. However, in an Advisory Action mailed on October 12, 2007, the Examiner informed Applicant that the Amendment failed to place the application in condition for allowance. Applicant then filed a Request for Continued Examination on November 1, 2007, made timely by obtaining a one month extension of time, and by including a Certificate of Mailing dated October 29, 2007 (October 28, 2007 fell on a Sunday. See 37 CFR 1.7(a)). The Office mailed a Notice of Non-Compliant Amendment on April 15, 2008. The Notice indicated that the Amendment submitted with the RCE on November 1, 2007 as non-compliant.

Applicant's amendment filed September 21, 2007 satisfied the requirement of a submission for an RCE under 37 CFR 1.114. "A previously filed amendment after final (whether or not entered) may satisfy this submission requirement". MPEP 706.07(h)(II).

The application is being forwarded to Group Art Unit 2454 for consideration of the RCE filed November 1, 2007, including the submission, the Amendment filed on September 21, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : ~~10/11/05~~ 7/8/05

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/282770 Patent No.: 6,925,542 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: The 10 patents under "References Cited - U.S. Patent Documents" should not be listed (do not apply) because these 10 patents were not considered by the Examiner (see the Examiner's letter to Applicant mailed 3-26-04)

Alan A. Mathews — SPE
2851 — Art Unit

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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MAR 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,038,279	:	
Issue Date: May 2, 2006	:	
Application No. 10/282,771	:	NOTICE
Filed: October 28, 2002	:	
Attorney Docket No. 62677US002	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 8, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

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PENNINGTON MOORE WILKINSON
BELL & DUNBAR P.A.
215 S. MONROE STREET, 2D FLOOR, 32301
POST OFFICE BOX 10095
TALLAHASSEE, FL 32302-2095

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Cindy Hagood Powell et al :
Application No. 10/282,774 : ON PETITION
Filed: October 29, 2002 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment 37 CFR 1.121 (Notice) mailed February 6, 2004. The Notice set a period for reply of one (1) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 7, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

This matter is being referred to Technology Center AU 3754.

Wan Laymon
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.

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In re Patent No. 6825586
Issue Date: November 30,2004
Application No. 10282782
Filed: October 29,2002
Attorney Docket No. P00627-US-0

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

This is a decision on the electronic petition, filed July 23,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 23,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,825,586	2004-11-30	10/282,782	2002-10-29	P00627-US-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 Pinyerd/	Date (YYYY-MM-DD)	2009-07-23
Name	James Pinyerd	Registration Number	58689

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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AUG 25 2004

CONNOLLY BOVE LODGE & HUTZ LLP
P O BOX 2207
WILMINGTON, DE 19899

In re Application of	:
Alain Lambert et al.	:
Serial No.: 10/282,785	: PETITION DECISION
Filed: October 29,2002	:
Attorney Docket No.: S 98/36 DIV; 5129*64	:

This is in response to the petition under 37 CFR 1.181, filed May 24, 2004, for withdrawal of abandonment of the above identified application based on a timely response to the Office Action mailed November 11, 2003. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on November 11, 2003 , setting a three month shortened statutory period for reply. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on May 19, 2004. Applicants state that there was a timely response filed on November 17, 2003 and have provided the response, a mailing receipt , and a postcard receipt from OIPE dated November 20, 2003. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

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

Should there be any questions about this decision please contact Jean F. Vollano, by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile sent to the general Office facsimile number.

Bruce Kisliuk
Director, Technology Center 1600

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Gardner et al.	:	
Application No. 10/282797	:	
Filing or 371(c) Date: 10/28/2002	:	
Attorney Docket Number:	:	
020392	:	ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 C.F.R.§ 1.181(a), filed November 13, 2007.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed November 29, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on March 1, 2007. A Notice of Abandonment was mailed May 21, 2007.

The Notice of Abandonment notes that as of May 14, 2007, Applicant's attorney, Ms. Mary Falef, agreed to abandon the application.

Applicant's Assertion

Applicant files the present petition, executed by Mr. Abdollah Katbab, and asserts that Applicant had no intention of abandoning the case. Applicant asserts that a timely reply to the Office action was filed, including a request for a three (3) month extension of time and fee, on May 29, 2007. In support of this assertion, Applicant files a copy of the first page of an Electronic Acknowledgment Receipt, which indicates only that a three (3) month extension of time fee was paid. No copy of the reply has been filed with the petition. No statement from Mary Falef has been filed with the petition.

A review of Office records reveals that an Amendment and Request for a three (3) month extension of time and fee were received by this Office on May 29, 2007.

Analysis and conclusion

Office records reveal that Applicant made a deliberate decision to abandon this application when Mary Falef agreed to abandon this case.

Applicant has failed to demonstrate that the application was not intentionally abandoned. Applicant must provide evidence of the efforts made to prosecute the application while the case was still pending. In particular, evidence of all communications relevant to the prosecution of this application for the period between March 1, 2007 and May 14, 2007, are required. Also required is an affidavit from Mary Falef as to her conversation(s) with the Examiner.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Gardner et al.	:	
Application No. 10/282797	:	
Filing or 371(c) Date: 10/28/2002	:	
Attorney Docket Number:	:	
020392	:	ON PETITION

This is a decision on the Request for Reconsideration of Petition to Withdraw Holding of Abandonment Under 37 C.F.R.§ 1.181(a), filed February 26, 2008.

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 November 29, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on March 1, 2007. A Notice of Abandonment was mailed May 21, 2007.

The Notice of Abandonment noted that as of May 14, 2007, Applicant's attorney, Ms. Mary Falef, agreed to abandon the application.

The November 13, 2007 petition

Applicant filed a petition on November 13, 2007, executed by Mr. Abdollah Katbab, and asserted that Applicant had no intention of abandoning the case. Applicant asserted that a timely reply to the Office action was filed, including a request for a three (3) month extension of time and fee, on May 29, 2007. In support of this assertion, Applicant filed a copy of the first page of an Electronic Acknowledgment Receipt, which indicates only that a three (3) month extension of time fee was paid. No copy of the reply was filed with the petition. No statement from Mary Falef was filed with the petition.

A review of Office records reveals that an Amendment and Request for a three (3) month extension of time and fee were received by this Office on May 29, 2007.

The December 31, 2007 Decision on petition

The petition was dismissed in a Decision on petition mailed December 31, 2007. The Decision informed Applicant that Office records revealed that Applicant made a deliberate decision to abandon this application when Mary Fales agreed to abandon this case.

Applicant had failed to demonstrate that the application was not intentionally abandoned. Applicant was required to provide evidence of the efforts made to prosecute the application while the case was still pending. In particular, evidence of all communications relevant to the prosecution of this application for the period between March 1, 2007 and May 14, 2007, were required. Also required was an affidavit from Mary Fales as to her conversation(s) with the Examiner.

The present renewed petition

Petitioner files the present renewed petition and supporting documents, and the affidavit of Mary Fales, demonstrating that the application was not intentionally abandoned.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The petition fee has been refunded to Applicant's deposit account as authorized in the petition.

The application will be referred to Technology Center Art Unit 2616 for processing of the Reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON MA 02199

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APR 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Munro et al.	:	DECISION ON PETITION
Application No. 10/282,805	:	UNDER 37 CFR 1.78(a)(3)
Filed: October 29, 2002	:	
Attorney Docket No. 12472/2013	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 5, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT Application No. PCT/GB99/02505, filed July 30, 1999, as set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

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

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

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required. Additionally, petitioner is advised that the claim for foreign priority is more appropriately referenced in either a declaration or an Application Data Sheet. Therefore, placement of such claim for foreign priority should not appear in the first line of the specification.

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

---

[1] *Note* 37 CFR 1.121

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON MA 02199

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of
Munro et al.
Application No. 10/282,805
Filed: October 29, 2002
Attorney Docket No. 12472/2013

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 9, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT application, No. PCT/GB99/02505, filed July 30, 1999, as set forth in the substitute amendment and the Application Data Sheet filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT 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 PCT application, No. PCT/GB99/02505, filed July 30, 1999, has been included in an amendment to the first sentence of the specification following the title, as well as in an Application Data Sheet, 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 PCT 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 PCT application, No. PCT/GB99/02505, filed July 30, 1999, accompanies this decision on petition.

The Office finance records indicate that on May 9, 2005, the Office incorrectly charged applicant's Deposit Account a duplicate surcharge for the acceptance of an unintentionally delayed claim for priority in the amount of $1,370.00. The duplicate surcharge in the amount of $1,370.00 is unnecessary and will be refunded to Deposit Account No. 16-0085.

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 3739 for appropriate action on the amendment and the Application Data Sheet filed on May 9, 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 PCT application, No. PCT/GB99/02505, filed July 30, 1999.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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HAROLD C. MOORE
MAGINOT, MOORE & BOWMAN
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3000
INDIANAPOLIS, IN 46204-5115

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APR 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Martin, Warren T.	:	
Application No. 10/282,834	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. 1505-0121	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 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 and publication fee in a timely manner in reply to the Notice of Allowance mailed December 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 29, 2005.

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

This matter is being referred to the Publishing Division for processing into a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Laura McIntosh
3496 Cooper Drive
Santa Clara CA 95051

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
McIntosh :
Application No. 10/282,845 : ON PETITION
Filed: October 29, 2002 :
Title: Method and System Apparatus Using :
Temperature and Pressure for Treating
Medical Disorders

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 3, 2005.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit a response to the Final Office Action mailed August 16, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on August 17, 2005. A Notice of Abandonment was mailed on December 9, 2005.

Petitioner contends the Final Office Action mailed on August 16, 2005 was never received.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. Petitioner has failed to provide sufficient evidence that a Final Office Action was never received.

A review of the record indicates no irregularity in the mailing of the Notice, 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 Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been

received and docketed must be attached to and referenced in practitioner's statement.[1]

Where applicant is pro se applicant should demonstrate what system is in place upon receipt of communication from the USPTO. If applicant retains documents in a central location, makes use of a computer program or calendar such information as well as any accompanying evidence should be provided on renewed petition. A pro se applicant must state that the file was searched and that the communication in question has not been located. The Office is looking for applicant to make a showing that the communication was not lost after receipt.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Final Office Action may have been lost after receipt rather than a conclusion that the Final Office Action was lost in the mail.

Although petitioner has provided a statement that the Final Office Action was not received, petitioner has not provided a statement that she has searched her files. Petitioner states that she does possess a file system but has not provided information regarding what the filing system consist of. Any renewed petition should describe the file system and state how petitioner handles mail received by the U.S. Patent and Trademark Office.

If petitioner is unable to establish the abandonment should be withdrawn, petitioner may wish to file a petition under 37 CFR 1.137(b).

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 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 C.F.R. § 1.137(b).

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

---

[1]M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.) U.S. Patent and Trademark Office
Customer Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

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Laura McIntosh
3496 Cooper Drive
Santa Clara CA 95051

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SEP 18 2006
OFFICE OF PETITIONS

In re Application of :
McIntosh et al :
Application No. 10/282,845 : ON PETITION
Filed: October 29, 2002 :
Title: Method and System Apparatus Using :
Temperature and Pressure for Treating
Medical Disorders

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 24, 2006.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit a response to the Final Office Action mailed August 16, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on August 17, 2005. A Notice of Abandonment was mailed on December 9, 2005. A petition was dismissed on March 6, 2006.

A review of the petition submitted shows that the petition was not signed by a proper party of interest. All correspondence concerning this application must be signed by: 1) all named applicants (inventors), 2) all the owners of the rights to the invention, or 3) a registered attorney or agent duly appointed by the inventor(s) or the owner(s). The petition has not been executed by inventor Hickerson.

The petition has **not** been reviewed on its merits.

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

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

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.) U.S. Patent and Trademark Office
Customer Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Laura McIntosh
3496 Cooper Drive
Santa Clara CA 95051

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JUN 08 2007

OFFICE OF PETITIONS

In re Application of :
McIntosh et al. :
Application No. 10/282,845 :
Filed: March 18, 2002 :
Title: Method and System Apparatus Using :
Temperature and Pressure for Treating
Medical Disorders

ON PETITION

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

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the Final Office Action mailed August 16, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on August 17, 2005. A Notice of Abandonment was mailed on December 9, 2005. Petitions were dismissed on March 6, 2006 and September 18, 2006.

Petitioner asserts that the final Office Action mailed on August 16, 2006 was never received. Petitioner attest that the Office Action was never received. Petitioner states a search of the docket records confirms the Office Action was not received. In support of petitioner's contention, a copy of applicant's docket records have been provided.

This application is being forwarded to Art Unit 3764 for re-mailing of the Office Action. The three month extendable time period for reply will be set to run from the mailing date of the re-mailed Office Action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#13

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

MAILED

DEC 16 2003

Office of the Director
Group 3600

In re application of
Frederick M. Rieber et al.
Application No.10/282,848
Filed: October 29, 2002
For: KNOCK-DOWN QUARTER PIPE FOR SKATEBOARDERS, BIKERS AND IN-LINE SKATERS

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 15, 2003 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed October 15, 2003 completes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Randolph A. Reese

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

RAR/cps: 12/15/03

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET,
SUITE 1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of

Thomas Cast

Application No. 10/282,909

Filed: October 28. 2002

Attorney Docket No. 6541-62614

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November, 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 5, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the statutory period. Accordingly, the application became abandoned on August 6, 2006.

The amendment filed November 8, 2006, is noted and made of record.

The request for extension of time within the third month, filed November 8, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply. The amount of $1020.00 will be refunded to deposit account 02-4550, in due course.

The application is being forwarded to Technology Center 2600, 2617 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of

Thomas Cast

Application No. 10/282,909

Filed: October 28, 2002

Attorney Docket No. 83531-368

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely response to the final Office action mailed July 2, 2007. No response was received within the allowable period and the application became abandoned on October 3, 2007. A Notice of Abandonment was mailed on January 17, 2008.

The Request for Continued Examination and amendment filed February 7, 2008, are noted.

The application file is being forwarded to Technology Center 2600, GAU 2617 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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SEP 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Goldman et al.	:	
Application No. 10/282,913	:	ON PETITION
Filed: 28 October, 2002	:	
Atty Docket No. 018617-0000310US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 13 August, 2004, 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 application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

This application became abandoned on 18 March, 2004, for failure to timely reply to the non-final Office action mailed on 17 December, 2003, 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. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners have submitted an amendment as the required reply.

The petition fee of $665.00 has been charged to counsel's deposit account, No. 20-1430, as authorized in the present petition.

The application is being forwarded to Technology Center 3700 for for further processing.

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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PETER H. PRIEST
5015 SOUTHPARK DRIVE, SUITE 230
DURHAM NC 27713

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:
Wolff et al.	:
Application No. 10/282919	: DECISION ON PETITIONS
Filed: 10/29/2002	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 800.0097	:

This is a decision on the petition filed on October 11, 2007, which is treated as a petition filed under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), 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 petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the Board of Appeals and Interferences for further processing, including consideration of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

DRAFT COPY - DO NOT MAIL

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/282,919	10/29/2002	2183	548	800.0097	32	2

CONFIRMATION NO. 6412

CORRECTED FILING RECEIPT

OC000000027373853

73846
Peter H. Priest
5015 Southpark Drive, Suite 230
Durham, NC 27713

Applicant(s)

Edward A. Wolff, Chapel Hill, NC;
Peter R. Molnar, Chapel Hill, NC;
Ayman Elezabi, Cairo, EGYPT;
Gerald George Pechanek, Cary, NC;

Assignment For Published Patent Application

BOPS, Inc., Mountain View, CA

Power of Attorney: The patent practitioners associated with Customer Number **27997**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/853,989 05/11/2001 PAT 6,845,445
which claims benefit of 60/203,629 05/12/2000

Foreign Applications

If Required, Foreign Filing License Granted: 11/27/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/282,919

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for a bit rake instruction

Preliminary Class

712

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVE
SUITE 200
EAST PALO ALTO CA 94303

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NOV 23 2004

OFFICE OF PETITIONS

In re Application	:
Jin Goon Yoon et al.	:
Application No. 10/282,922	: DECISION ON APPLICATION
Filed: October 28, 2002	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. BOOK-001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)...," filed July 27, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one hundred three (103) 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 three **(103)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 7, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero days. On July 27, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred three (103) days. Applicants dispute the reduction of one hundred twenty-one (121) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed February 26, 2003

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

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of one hundred three (103) 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 one hundred

[1] PALM records indicate that the Issue Fee was received in the Office on August 23, 2004

twenty-one (121) days, pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The reduction of one hundred twenty-one (121) days of applicant delay is at issue.

The reduction of 121 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the Notice to File Missing Parts of Application mailed February 26, 2003, is of record in the application with a date of receipt by the Office of March 23, 2003. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have entered the date that the instant application was complete as September 24, 2003 or assessed applicants a delay of one twenty-one (121) days. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicant's delay should have been assessed as zero (0) days. Applicants did not delaying in replying to the Notice to File Missing Parts of Application and thus did not fail to engage in reasonable efforts to conclude prosecution of the application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one hundred three (103) days.

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

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

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.

Kery A Fries
for

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

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 8

PRIEST & GOLDSTEIN PLLC
5015 SOUTHPARK DRIVE
SUITE 230
DURHAM, NC 27713-7736

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application
Doina Petrescu et al
Application No. 10/282,925
Filed: October 29, 2002
Attorney Docket No. 800.0089

: LETTER

This is in response to the paper filed March 4, 2003 which is being treated as a petition under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the March 4, 2003 request, the status as a Small Entity has been removed.

This file is being forwarded to Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 306-5684

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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ALEXANDRIA, VA 22313-1450
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CHARLES KURAK JR.
5823 KILTSHIRE RD.
DURHAM, NC 27712-1066

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of
Doina Petrescu; Trampas Stern; Marco Jacobs; Dan Searles; Charles W. Kurak Jr.
Application No. 10/282,925
Filed: October 29, 2002
For: METHODS AND APPARATUS FOR VIDEO DECODING

Dear Mr. Kurak:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:

Priest & Goldstein Pllc
5015 Southpark Drive
Suite 230
Durham, NC 27713-7736

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Paper No. 8 7

PRIEST & GOLDSTEIN PLLC
5015 SOUTHPARK DRIVE
SUITE 230
DURHAM, NC 27713-7736

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MAY 0 9 2003

OFFICE OF PETITIONS

In re Application of	:
Doina Petrescu et al	:
Application No. 10/282,925	: DECISION GRANTING
Filed: October 29, 2002	:STATUS UNDER 37 CFR 1.47(a)
For: METHODS AND APPARATUS	:
FOR VIDEO DECODING	:

This is in response to the petition under 37 CFR 1.47(a), filed March 4, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor (Charles W. Kurak, Jr.) cannot be located to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BIB DATA SHEET

CONFIRMATION NO. 5990

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/282,927	10/28/2002 **RULE**	422	3736	38187-2600.US

APPLICANTS

Tad Decatur Simons, Palo Alto, CA;
Michael Greenstein, Los Altos, CA;
Dominique M. Freeman, Pescadero, CA;
Leslie Anne Leonard, Portola Valley, CA;
David A. King, Menlo Park, CA;
Paul Lum, Los Altos, CA;

**** CONTINUING DATA ***************************

This application is a DIV of 09/417,276 10/13/1999 PAT 6,472,220 /JF/
which is a CON of 08/985,299 12/04/1997 PAT 6,036,924

**** FOREIGN APPLICATIONS **************************** /JF/

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****

12/16/2002

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /JONATHAN M FOREMAN/ Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY CA	SHEETS DRAWINGS 10	TOTAL CLAIMS 47	INDEPENDENT CLAIMS 8

ADDRESS

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105
UNITED STATES

TITLE

Cassette of lancet cartridges for sampling blood

FILING FEE RECEIVED 2074	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

Mail Date: 04/26/2010

Applicant	: Tad Decatur Simons	: DECISION ON REQUEST FOR
Patent Number	: 7666149	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/282,927	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2049** 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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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
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ORLANDO, FL 32802-3791

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MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
John A. Regnier et al	:	
Application No. 10/282,928	:	DECISION GRANTING
Filed: October 28, 2002	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 2479.1044-001	:	

This is in response to the petition filed June 16, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor (James A. Proctor, Jr.) has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision should be directed to Karen Creasy at (571) 272-3208.

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

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Commissioner for Patents
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JAMES A. PROCTOR, JR.
258 SEA VIEW STREET
MELBOURNE, FL 32951

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MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of
John A. Regnier; James A. Proctor, Jr.; Michael J. Lynch & Thomas E. Gorsuch
Application No. 10/282,928
Filed: October 28, 2002
For: METHOD AND APPARATUS FOR ADAPTING ANTENNA ARRAY USING RECEIVED PREDETERMINED SIGNAL

Dear Mr. Proctor:

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

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

Telephone inquiries regarding this communication should be directed to Karen Creasy at (571) 272-3208. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:

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Paper No.

CHARLES P. LANDRUM
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OCT 06 2003

OFFICE OF PETITIONS

In re Application of
Ellen S. Vitetta et al
Application No. 10/282,935
Filed: October 29, 2002
Attorney Docket No. UTSD:884US

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 3, 2003 and supplemented by facsimile transmission on September 30, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/698,551, filed October 26, 2000 set forth in the amendment filed September 30, 2003.

The petition is **GRANTED**.

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

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

---

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

The instant pending application was filed on October 29, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

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

The examiner of Technology Center Art Unit 1653 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/698,551, filed October 26, 2000.

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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Paper No. 6

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of
Chiang, Palmer, Gothard & Snyder
Application No. 10/282,955
Filed: October 28, 2002
Attorney Docket No. 2479.2066-002
For: DIRECTIONAL ANTENNA

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

This is in response to the petition under 37 CFR 1.47(a), filed June 19, 2003 (certificate of mailing date June 16, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, William R. Palmer, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney David J. Thibodeau, Jr., establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to numerous requests that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

In response to the "REQUEST FOR CORRECTED FILING RECEIPT FOR UTILITY APPLICATION" filed with the instant petition, please find enclosed a corrected filing receipt.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2800 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

enclosure: corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM R. PALMER
2612 S. RIVERVIEW DRIVE
MELBOURNE FL 32901

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of
Chiang, Palmer, Gothard & Snyder
Application No. 10/282,955
Filed: October 28, 2002
Attorney Docket No. 2479.2066-002
For: DIRECTIONAL ANTENNA

LETTER

Dear Mr. Palmer:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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BRIAN R WOODWORTH
275 N FIELD DR
DEPT NLEG BLDG H-1
LAKE FOREST IL 60045-2579

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NOV 23 2005

OFFICE OF PETITIONS

In re Patent No. 6,942,636	:
Holst, et al.	: DECISION REGARDING
Issue Date: September 13, 2005	: PATENT TERM ADJUSTMENT
Application No. 10/282,967	: AND
Filed: October 29, 2002	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 6597.US.C1	: CERTIFICATE OF CORRECTION

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT & CERTIFICATE OF CORRECTION FOR PTO ERROR" filed September 13, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **thirty-five (35)** days.

On September 13, 2005, the above-identified application matured into U.S. Patent No. 6,942,636. The patent issued with a Patent Term Adjustment of zero (0) days. Patentees state that they were erroneously assessed applicant delay of thirty-nine (39) days for the filing of drawings on August 6, 2005.

The thirty-nine (39) days of applicant delay assessed for drawings on August 6, 2005 is incorrect. Applicant did not file drawings on after the Notice of Allowance.

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR § 1.322 is appropriate.

The $200 fee under 37 CFR §1.18(e) has been charged to Deposit Account No. 50-3118, as authorized.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **thirty-five (35)** days subject to any disclaimers.

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

Kery Fries

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

Enclosure: Copy of Draft Certificate of Correction

SPE: M. Woodward

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/15/07

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/282,984 Patent No.: 7166291

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: UNCLEAR WHY THIS SORT OF ERROR REQUIRES EXAMINER'S ATTENTION.

M M Woodward — SPE

1615 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

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AUG 0 2 2006

Director's Office
Office of Patent Publication

MALVERN U. GRIFFIN III
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, NE
ATLANTA, GA 30309-3996

In re Application of :
BAYNE, ANTHONY, et al. :
Application No. 10/282,991 : **DECISION ON PETITION**
Filed: October 29, 2002 :
Attorney Docket No. 19657-0002 :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) via facsimile transmission on June 22, 2006.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed January 20, 2006. The Notice of Abandonment, mailed on June 14, 2006 indicates, "The submitted fee of $0 is insufficient. A balance of $1000 is due."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on March 9, 2006, authorizing that the Issue Fee and Publication Fee, and five (5) Advanced Order copies be charged to Deposit Account No. 19-5029. Unfortunately, on March 9, 2006, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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OFFICE OF PETITIONS

Malvern U. Griffin, III
SUTHERLAND ASBILL & BRENNAN, LLP
999 Peachtree Street, NE
Atlanta, GA 30309-3996

In re Application of	:	
Anthony H. Bayne	:	
Application No. 10/282,991	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. 19657-0002	:	

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

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed January 20, 2006. A Notice of Abandonment was mailed on June 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $15 for five (5) advance order soft copies submitted on August 11, 2006.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of
Bert W. Elliott
Application No. 10/282,997
Filed: October 29, 2002
Attorney Docket No. 25245A

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection of October 10, 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 11, 2008.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3633 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted on November 28, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of
Miller & Brownlee
Application No. 10/283,002
Filed: October 29, 2002
Attorney Docket No. 19133.0017U2
For: TEXTURED LAMINATE FLOORING

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 14, 2003 (certificate of mailing date July 10, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Robert J. Miller, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney William R. Johnson, an attorney handling the prosecution of this application, establishes that the inventor's two attorneys received a complete copy of the application papers on separate occasions and the second attorney stated that Mr. Miller would not sign the declaration unless he received additional information. 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

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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ROBERT J. MILLER
2060 EAGLE POINT DRIVE
DALTON GA 30720

COPY MAILED

JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of
Miller & Brownlee
Application No. 10/283,002
Filed: October 29, 2002
Attorney Docket No. 19133.0017U2
For: TEXTURED LAMINATE FLOORING

LETTER

Dear Mr. Miller:

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: NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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

ALCOA INC
ALCOA TECHNICAL CENTER
100 TECHNICAL DRIVE
ALCOA CENTER, PA 15069-0001

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JUN 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Magnusen et al. :
Application No. 10/283,004 :
Filed: October 29, 2002 :
Attorney Docket No. 00-1403 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.182, filed June 4, 2003, to change the names of the attorneys which will appear on the face of the patent.

The petition is **dismissed.**

The names of the attorney(s) and/or law firm(s) which will appear on the face of the patent are determined when the issue fee is paid. At the time the issue fee transmittal form is mailed to the Office, petitioner may determine which names petitioner wishes to appear on the face of the patent. A blank issue fee transmittal form is attached with the applicable portion marked.

MPEP 1309 states,

> The Issue Fee Transmittal form provides a space (item 2) for the person submitting the base issue fee to indicate, for printing, (1) the names of up to three registered patent attorneys or agents or, alternatively, (2) the name of a single firm, which has as a member at least one registered patent attorney or agent, and the names of up to two registered patent attorneys or agents. If the person submitting the issue fee desires that no name of practitioner or firm be printed on the patent, the space on the Issue Fee Transmittal form should be left blank. If no name is listed on the form, no name will be printed on the patent.

Petitioner may wish to note that Office records fail to indicate that a power of attorney has been given to either Charles Q. Buckwalter or Carl R. Lippert. If petitioner wishes for these names to be shown on the face the patent, then these individuals should be given a power of attorney prior to payment of the issue fee and mailing of the issue fee transmittal form.

The file is now being forwarded to the examiner in Technology Center Art Unit 1742.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Issue Fee Transmittal Form

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ALEXANDRIA, VA 22313-1450
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Robert H. Rines
Rines and Rines
81 North State Street
Concord, NH 03301

Paper No. 2 1/2

JAN 26 2005

In re Application of Robert H. Rines Serial No. : 10/283,009 Filed : October 25, 2002 For : Method of Ameliorating Vision-Inhibiting Effects of Cataracts and the Like	DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

This is a decision on petitioner's request filed January 31, 2003 to accept color drawings.

Under 37 CFR 1.84(a)(2) color photographs will be accepted in utility applications if: (a) a fee as set forth in 37 CFR 1.17(h) is submitted; (b) three (3) sets of color drawings are provided; (c) a black and white photocopy accurately depicting, to the extent possible, the subject matter shown in the color drawing is submitted; and (d) the specification is amended by inserting as the first paragraph of the brief description of the drawings the following language:

> The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Applicant has failed to comply with items (c) and (d) noted above. Requirement (c) for a black and white photocopy of the color drawings has been waived. See 1246 O.G. 106 (May 22, 2001). However, item (d) is still required. Accordingly the petition to accept color drawings is dismissed.

Summary: Petition to accept color drawings dismissed.

Corrine McDermott, SPE
Art Unit 3738
Phone: (571) 272-4754

ak/11/30/04

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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: M. Todd Miller	: DECISION ON REQUEST FOR
Patent Number	: 7588595	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/283,010	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **740** 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.

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)
6,888,371	2005-05-03	10/283,019	2002-10-29	LEOPP007

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Quon Hom/	Date (YYYY-MM-DD)	2010-04-06
Name	Quon Hom	Registration Number	61928

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6888371
Issue Date: May 3,2005
Application No. 10283019
Filed: October 29,2002
Attorney Docket No. LEOPP007

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

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

The petition is **GRANTED**.

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

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

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

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

COPY MAILED

MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Lee
Application No. 10/283,051
Filed: October 30, 2002
Attorney Docket No. BHT-3229-9
For: CALCULATOR INCORPORATING A LIQUID GAME

DECISION GRANTING PETITION

This is a decision on the petition entitled, "RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVSIONAL APPLICATION," filed January 15, 2003, requesting, in effect, withdrawal of the Notice of Omitted Items In a Nonprovisional Application (Notice), mailed November 27, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was filed on October 30, 2002. On November 27, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that Figures 6, 7, and 8 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that Figures 6, 7, and 8 be accorded a filing date of October 30, 2002 on the basis that 6 sheets of drawing figures, including Figures 6, 7, and 8, were received in the Patent and Trademark Office (PTO) on October 30, 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 30, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 sheets of drawings. A review of the originally filed application papers reveals that only 3 sheets of drawing figures are present.

The return postcard constitutes *prima facie* evidence that 6 sheets of drawing figures, including Figures 6, 7, and 8, were filed on October 30, 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. 50-1874.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 30, 2002, using the copy of Figures 6, 7, and 8 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
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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/283,055	10/30/2002	Yoshiaki Ikuta	230063US0 DIV	7718

22850 7590 12/29/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DEHGHAN, QUEENIE S

ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
12/29/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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bc

Mailed: 12/29/09

In re application of	:	
Yoshiaki Ikuta et al.	:	DECISION ON
Serial No. 10/283,055	:	PETITION
Filed: October 30, 2002	:	
For: SYNTHETIC SILICA GLASS OPTICAL	:	
COMPONENT AND PROCESS FOR ITS	:	
PRODUCTION	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR ENTRY OF THE AFTER FINAL DECLARATION UNDER RULE 132 filed November 11, 2009.

On June 11, 2009, a final Office action was mailed to Applicants. Applicants responded on October 07, 2009 to this Office action by filing a 132 declaration to overcome a 35 USC 112, first paragraph, rejection. In an advisory action mailed on October 28, 2009, the examiner refused entry of the declaration based on untimeliness.

On November 11, 2009, the instant petition under 37 CFR 1.181 was timely filed to request the entry of the after final declaration of October 07, 2009.

Petitioner's position is that there is good and sufficient reasons by this declaration was not earlier presented and that the declaration should be entered.

DECISION

Section 716.01 of the MPEP concerning Rule 132 declarations states in part:

> Affidavits and declarations submitted under 37 CFR 1.132 and other evidence traversing rejections are considered timely if submitted:
>
> (1) prior to a final rejection,
> (2) before appeal in an application not having a final rejection,
> (3) after final rejection, but before or on the same date of filing an appeal, upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e); or
> (4) after the prosecution is closed (e.g., after a final rejection, after appeal, or after allowance) if applicant files the affidavit or other evidence with a request for continued examination (RCE) under 37 CFR 1.114 in a utility or plant application filed on or after June 8, 1995; or a continued prosecution application (CPA) under 37 CFR 1.53(d) in a design application.

In the advisory action mailed October 28, 2009, the examiner states that the declaration submitted on October 07, 2009 was untimely and would not be considered. Petitioner urges that good and sufficient reasons have been presented as to why the declaration is necessary and why it was not submitted earlier. The reasons given as to the timeliness requirements state that the declaration, which was the third declaration filed by Kikugawa, simply clarified the contents of a

previously filed declaration, i.e. the second declaration filed by Kikugawa. Moreover, the advisory action appears to at least briefly address the merits of the third Kikugawa declaration. While it is in the examiner's discretion as to whether or not to consider declarations filed after final rejection, in the instant case, it appears that the declaration should in fact be considered and entered as a matter of equity.

Accordingly, the petition for consideration of the declaration filed on October 07, 2009 is **GRANTED.** The application is being forwarded to the examiner for full consideration and entry of the declaration.

/Jacqueline M. Stone/

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

HARRIS A. PITLICK
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

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#6

REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103-7301

In re Application of	:
Jonah Shacknai et al	:
Serial No.: 10/283,102	: PETITION TO MAKE SPECIAL
Filed: October 29, 2002	:
Attorney Docket No.: 00-40175	:

This is in response to applicants' petition filed January 13, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

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

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OFFICE OF PETITIONS

In re Application of :
Kreiner, et al. :
Application No. 10/283,120 : ON PETITION
Filed: October 30, 2002 :
Attorney Docket No. BS01426 :
For: SYSTEM FOR MONITORING AND TRACKING OBJECTS

This is a decision on the petition under 37 CFR 1.137(b), filed on June 5, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed March 24, 2005, which set an extendable three month period for reply. Applicants submitted an amendment after final on June 24, 2005. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the May 29, 2007 Advisory action. Accordingly, this application became abandoned on June 25, 2005.

Applicants have submitted a RCE and required $790.00 fee and amendment as the submission in reply to the March 24, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 24, 2005 final Office action, and the $1,500.00 petition fee.

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, petitioners 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, petitioners must notify the Office.

After the mailing of this decision the application will be forwarded to Technology Center AU 2876 for consideration of the RCE filed on June 5, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Harlan et al.
Application No. 10/283,123
Filed: October 30, 2002
Attorney Docket No. NC 82023

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 27, 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 28, 2003. A Notice of Abandonment was mailed on January 27, 2004.

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

Petitioner's deposit account will be charged an additional $130.00 to cover the late declaration surcharge as authorized.

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

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#10

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TECHNOLOGY CENTER 3600

Lockheed Martin NE&SS
400/043
9500 Godwin Drive
Manassas, VA 20110

In re Application of
Buddy R. Paul
Application No. 10/283,174
Filed: October 30, 2002
For: LAUNCHER CLOSURE WITH BEARING RETAINER AND PRESSURE PULSE OPERATION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on October 18, 2004.

The petition is **GRANTED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicant on October 8, 2003. A Notice of Abandonment was mailed on May 10, 2004.

Applicant's petition indicates that the Office action was never received.

There is a strong presumption that the Office communication, properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating that the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of January 8, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Applicant's petition provides a copy of the docket record showing all responses due by practitioner's office between the dates of January 1, 2004 and January 10, 2004. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Notice of Allowability and Notice of Allowance and Issue Fees Due based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

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

SNM/rwg: 12/02/04

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Lockheed Martin NE&SS
400/043
9500 Godwin Drive
Manassas, VA 20110

In re Application of
Buddy R. Paul
Application No. 10/283,174
Filed: October 30, 2002
For: LAUNCHER CLOSURE WITH BEARING RETAINER AND PRESSURE PULSE OPERATION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a supplemental decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on October 18, 2004.

The petition is **GRANTED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicant on October 8, 2003. A Notice of Abandonment was mailed on May 10, 2004.

Applicant's petition indicates that the Office action was never received.

In support thereof, applicant's petition provides a copy of the docket record showing all responses due by practitioner's office between the dates of January 1, 2004 and January 10, 2004. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

In a prior decision, mailed December 8, 2004, applicant's petition was granted, because the petition included sufficient evidence of non-receipt of the Office action mailed October 8, 2003. However, that decision incorrectly instructed the Supervisory Legal Instruments Examiner to "redate and remail the Notice of Allowability and Notice of Allowance and Issue Fees Due".

Therefore, applicant's petition remains **GRANTED,** and the application is again forwarded to the Supervisory Legal Instruments Examiner, but with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office action (final rejection), originally mailed October 8, 2003, based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Steven N. Meyers
Special Programs Examiner
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(703) 308-3868

SNM/rwg: 12/16/04

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KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of	:	
Laor	:	
Application No. 10/283,183	:	ON APPLICATION FOR
Filed: October 30, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. HRZ0013-US	:	

This is in response to the "Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance," filed July 29, 2009. Applicant submits that the patent term adjustment to be indicated on the patent is at minimum one thousand eight hundred twenty-three (1,823) days, not two hundred sixty (260) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicant asserts that 1) a period of reduction of 81 days should be removed for applicant delay in filing an Information Disclosure Statement (IDS) on July 24, 2006 and 2) a period of adjustment of 3 days should be removed for Office delay in mailing a non-final Office action on September 7, 2006.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or

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

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

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

To the extent that applicant otherwise requests correction of the initial determination of patent term adjustment (PTA), 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

---

[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.

of the mailing of the Notice of Allowance is three hundred forty-one (341) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 30, 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 260 days. Applicant disputes the reduction of 81 days associated with the filing of Information Disclosure Statement (IDS) on July 24, 2006. In addition, applicant discloses that a period of adjustment of 3 days for Office delay should be removed in connection with the non-final Office action mailed September 7, 2006.

Applicant's argument with respect to the Information Disclosure Statement has been considered and found persuasive. The IDS filed July 24, 2006 was filed under circumstances that do **not** constitute a failure to engage within the meaning of 37 CFR 1.704(c)(8). Entry of the period of reduction of 81 days is **not** warranted and will be removed.

Applicant discloses that a period of adjustment of 3 days for Office delay should be removed in connection with the non-final Office action mailed September 7, 2006. The Office does not concur.

A final Office action was mailed on March 23, 2006. On May 4, 2006, applicant filed a Notice of Appeal (and a Pre-Appeal Brief Request for Review). The Notice of Panel Decision from Pre-Appeal Brief Review stated that the rejection was withdrawn and a new Office action would be mailed. The Office did not mail a non-final Office action until September 7, 2006, four months and 3 days after the Notice of Appeal (and Pre-Appeal Brief Request for Review) were filed. Pursuant to 37 CFR 1.702(a)(2), a period of adjustment of 3 days was properly entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is 341 days.

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

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

The 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 Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM PTA Calculation for Application

Day : Wednesday

PALM INTRANET

Date: 9/30/2009
Time: 19:11:34

PTA Calculations for Application: 10/283183			
Application Filing Date:	10/30/2002	PTO Delay (PTO):	622
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	362
Post-Issue Petitions:	0	Total PTA (days):	341
PTO Delay Adjustment:	81		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	09/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	81		
57	04/30/2009	MAIL NOTICE OF ALLOWANCE			
56	04/28/2009	ISSUE REVISION COMPLETED			
55	04/28/2009	DOCUMENT VERIFICATION			
54	04/28/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	04/27/2009	NOTICE OF ALLOWABILITY			
52	02/18/2009	DATE FORWARDED TO EXAMINER			
51	01/30/2009	RESPONSE AFTER NON-FINAL ACTION		84	49
50	01/30/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	08/07/2008	MAIL NON-FINAL REJECTION			
48	08/04/2008	NON-FINAL REJECTION			
47	06/02/2008	DATE FORWARDED TO EXAMINER			
46	05/27/2008	RESPONSE TO ELECTION / RESTRICTION FILED		90	44
45	05/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	11/27/2007	MAIL RESTRICTION REQUIREMENT			
43	11/26/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
42	09/20/2007	DATE FORWARDED TO EXAMINER			
41	09/13/2007	RESPONSE TO ELECTION / RESTRICTION FILED		41	37
40	09/13/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	05/03/2007	MAIL RESTRICTION REQUIREMENT			
36	04/30/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
35	02/07/2007	SUBSTITUTE SPECIFICATION FILED			
34	02/07/2007	NEW OR ADDITIONAL DRAWING FILED			

33	02/26/2007	DATE FORWARDED TO EXAMINER			
32	02/07/2007	RESPONSE AFTER NON-FINAL ACTION		62	30
31	02/07/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	09/07/2006	MAIL NON-FINAL REJECTION	3		21
29	09/05/2006	NON-FINAL REJECTION			
28	07/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	07/24/2006	REFERENCE CAPTURE ON IDS			
26.7	07/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		81	21
26	07/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	06/20/2006	DATE FORWARDED TO EXAMINER			
24	06/20/2006	MAIL APPEALS CONF. REOPEN PROSEC.			
23	06/14/2006	PRE-APPEALS CONFERENCE DECISION - REOPEN PROSECUTION			
22	05/04/2006	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
21	05/04/2006	NOTICE OF APPEAL FILED			
20	03/23/2006	MAIL FINAL REJECTION (PTOL - 326)			
19	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	03/20/2006	FINAL REJECTION			
17	03/06/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	12/20/2005	DATE FORWARDED TO EXAMINER			
15	12/13/2005	RESPONSE AFTER NON-FINAL ACTION		4	13
14	12/13/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	09/09/2005	MAIL NON-FINAL REJECTION	619		-1
12	09/06/2005	NON-FINAL REJECTION			
11	08/30/2004	MISCELLANEOUS INCOMING LETTER			
10	08/30/2004	MISCELLANEOUS INCOMING LETTER			
9	12/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	03/06/2003	REFERENCE CAPTURE ON IDS			
7.7	03/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

5	01/29/2003	CASE DOCKETED TO EXAMINER IN GAU			
4	12/02/2002	APPLICATION DISPATCHED FROM OIPE			
3	11/29/2002	APPLICATION IS NOW COMPLETE			
2	11/05/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/30/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
ATLANTA, GA 30309

Mail Date: 06/25/2010

Applicant	: Herzel Laor	: DECISION ON REQUEST FOR
Patent Number	: 7616754	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/283,183	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1678** 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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Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventh Street
Suite 1800
Arlington, VA 22209-3873

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In re Sano, et al : **DECISION**
Application No. 10/283,215 : **ON**
Filed: October 30, 2002 : **PETITION**

This is a decision on an August 31, 2007 petition, requesting resetting of the period for reply to an August 8, 2007 restriction requirement. The petition will be treated as a timely petition under 37 CFR 1.181(a)(3).[1] The petition will also be treated as a request for opting out of the Electronic Notification of Outgoing Correspondence (e-Office Action) pilot program for the instant application and substitution of paper mail delivery of any subsequent Office action. The petition is supported by an August 6, 2007 email, a copy of which was submitted by facsimile on September 5, 2007.

The petition is granted in part and dismissed in part as moot.

Background Information

The Office announced, in the Official Gazette on January 16, 2007, the opportunity for applicants to opt into an electronic notification of a pending Office action rather than wait to receive a mailed paper copy thereof.[2]

Applicant had opted into the pilot e-Office Action program for the instant application.

The August 6, 2007 email states that applicant finds unacceptable the delay in notifications received in the pilot program, and on the day of the email has "again requested all communications from the USPTO to be by U.S. mail."

A review of PALM information reveals that:

- on August 8, 2007 the Office made a restriction requirement in the instant application, which action indicates that "[n]otice of the Office communication was sent electronically" on August 8, 2007 to an identified email address,
- no email notification of the restriction requirement is listed, and
- on August 16, 2007 the Office mailed a courtesy post card regarding the referred to email notification.

Applicant on September 7, 2007 timely replied to the restriction requirement.

[1] A non-fee petition.
[2] A refinement of the program was later announced in the Official Gazette on June 26, 2007.

The petition states that: (1) notwithstanding the indication of an e-notification, no notification appears to have been sent other than by post card, and (2) while the post card was mailed on August 16, 2007, it was actually received on August 20, 2007.

The petition requests that as applicant had opted out of the pilot program on August 6, 2007, and no email notification was actually sent: (1) applicant be notified of future Office actions by a paper mailing of the Office actions, and (2) the period for reply to the August 7, 2007 rejection be restarted from August 20, 2007, the date of actual notice of the rejection. The petition does not request that a paper copy of the rejection be sent to applicant.

Decision on Petition

(1) Pilot Program: The announcements by the Office regarding the pilot program make it clear that an applicant may freely opt out of the e-Office Action pilot program "at any time."

Accordingly, applicant's petition is granted in this respect. A review of PALM records reveals that "Delivery Mode" has already been changed to "Paper" in the Correspondence Address screen. All future correspondence to applicant will be mailed in paper form.

(2) Reply Date: As applicant has timely replied to the restriction requirement, there is no need to restart the time for reply.

Accordingly, the petition in this respect is dismissed as moot.

(3) Mailing: The instant Decision will be mailed to applicant in paper form,[3] see (1) above.

Processing

The instant Decision (after mailing in paper form), and a paper copy of parts of the September 5, 2007 facsimile submission related to the instant application, with a copy of the included August 6, 2007 email submission without the attachments to that email, will be forwarded to Technology Center 1700 for entry into the file record.

Hiram H. Bernstein
Senior Legal Advisor
Office of Patent Legal Administration
(571) 272- 7707

[3] The Final Rejection itself will not be resent in paper form.

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

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,372,806	:	ON PETITION
Suemura	:	UNDER 37 CFR 1.183
Issue Date: May 13, 2008	:	and
Application No. 10/283,241	:	ON REQUEST FOR RECONSIDERATION
Filed: October 30, 2002	:	OF PATENT TERM ADJUSTMENT
Attorney Docket No. 017344-0323	:	

This is a decision on the 1) petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued and on the 2) Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), both of which were filed on November 10, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On May 13, 2008, the above-identified application matured into U.S. Patent No. 7,372,806, with a revised patent term adjustment of 1,051 days. No request for reconsideration of the patent

term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on May 13, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 10, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 13, 2008, the date two months from the date this patent issued, May 13, 2008. Rather, on November 10, 2008, more than one month after the issuance of a decision in Wyeth v. Dudas on September 30,

2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is

---

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

"the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make

the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly six-month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how his failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that his situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision, but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and 37 CFR 1.323 or 35 U.S.C. 255 and 37 CFR 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed November 10, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to one thousand five hundred forty-six (1,546) days.

On May 13, 2008, the above-identified application matured into U.S. Patent No. 7,372,806 with a revised patent term adjustment of 1,051 days. The instant request for reconsideration was filed more than five months after the issuance of the patent, on November 10, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

The Office acknowledges receipt of the petition fee of $200.00, as set forth in 37 CFR 1.18(e). Petitioner has submitted only $130.00 towards the $400.00 Rule 183 petition. Pursuant to petitioner's authorization, deposit account no. 19-0741 will be charged the $270.00 balance due.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 18 2005

OFFICE OF PETITIONS

In re Application Kazuyuki Akita Application No. 10/283,257 Filed: October 30, 2002 Attorney Docket No. 2621-0110P	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed February 3, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred sixty-nine (169) days to one hundred seventy (170) days.

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

On November 4, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is one hundred sixty-nine (169) days. On February 3, 2005, Applicant timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred seventy (170) days.

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[1] Applicant filed the application for patent term adjustment on the same date as the issue fee.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of one hundred sixty-nine (169) days based on an adjustment for PTO delay of one hundred seventy-one (171) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicant's delay of two (2) days, pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b).

Applicant asserts that because there were 29 days in the month of February 2004 due to the leap year, Applicant is entitled to one extra day of PTA. Applicant further asserts that there were no instances of applicant delay under 37 C.F.R. § 1.704.

All adjustments have been reviewed and found to be correct. The application was filed on October 30, 2002. Pursuant to 37 C.F.R. § 1.703(a)(1), the Office had fourteen months, or until December 30, 2003, to mail an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. The Office did not mail an action under 35 U.S.C. 132 until June 18, 2004. Accordingly, under § 1.703(a)(1), the number of days of PTO delay is measured "beginning on the day **after** the date that is fourteen months after the date on which the application was filed...and ending on the date of mailing" of the 35 U.S.C. 132 action or 35 U.S.C. 151 notice of allowance. In view thereof, the period for measuring PTO delay pursuant to § 1.703(a)(1) in this application is as follows:

- December 31, 2003 (1 day)
- January, 2004 (31 days)
- February, 2004 (29 days)
- March, 2004 (31 days)
- April, 2004 (30 days)
- May, 2004 (31 days)
- June 1 - June 18, 2004 (18 days)

As 1 + 31 + 29 + 31 + 30 + 31 + 18 = 171, the PTO was properly assessed delay of 171 days.

Furthermore, applicant was properly assessed delay of two (2) days for filing an amendment on September 20, 2004, in response to an Office action mailed on June 18, 2004. While it is true that the amendment was timely pursuant to 37 C.F.R. § 1.7(a) for purposes of avoiding abandonment, the date of filing is the date

used in the patent term adjustment calculation.[2]

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred sixty-nine (169) days** (171 days of PTO delay reduced by 2 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

The application file is being forwarded to the 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.

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

---

[2] See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14 (Oct. 3 2000).

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

Mail Date: 06/02/2010

Applicant	: Andrew Fire	: DECISION ON REQUEST FOR
Patent Number	: 7622633	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/283,267	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1953** 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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1940 DUKE STREET
ALEXANDRIA VA 22314

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MAY 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Fujita et al. :
Application No. 10/283297 :
Filing or 371(c) Date: 10/30/2002 :
Attorney Docket Number: :
229152US3 : ON PETITION

This is a decision on the Request for Withdrawal Holding of Abandonment, filed March 9, 2007. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 15, 2006. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on November 16, 2006. A Notice of Abandonment was mailed February 27, 2007.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action was filed, including a request for a three (3) month extension of time, on February 15, 2007. In support of this assertion, Applicant files a copy of the Reply and a copy of his return-receipt postcard acknowledging receipt of, *inter alia*, an Amendment and Request for Extension of Time 3 Months, by this Office on February 15, 2007.

A review of office records also reveals that an Amendment and Request for a three (3) month extension of time and fee were received by this Office on February 15, 2007.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3673 for processing of the Reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/05/07

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/283314** Patent No.: **7093853**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____ **SPE** 1713 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/05/07

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/283314** Patent No.: **7093853**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

SPE _____ Art Unit 1713

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Paper No. 6

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Cinquini et al. :
Application No. 10/283,317 :
Filed: October 30, 2002 :
Attorney Docket No. :
113042 :

This is a decision on the Petition Under 37 CFR 1.182 for Request to Change Order of Inventors, filed August 28, 2003.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Laura Cinquini

2. Allen J. McBride

This application is being returned to Technology Center Art Unit 3629 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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JUL 20 2005

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re application of Laura Cinquini et al. Application No. 10/283,317 Filed: October 30, 2002 For: METHOD AND APPARATUS FOR PROVIDING A PERSONAL ITEM DROP OFF/RETURN SERVICE AT SECURITY CHECKPOINTS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on April 08, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(517) 272-6587

KJD/slb: 06/23/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-26-07

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 7050155-B2 (10/263322)

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

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

Please reply A/S/A/P for drawings. This is the 2nd time atty wants to know the status Thanks

Eva James

Thank You For Your Assistance

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

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

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

Comments:

[signature] SPE

AU2857 Art Unit

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OFFICE OF PETITIONS

In re Application of	:	
Norman W. Schaad et al	:	
Application No. 10/283,346	:	DECISION GRANTING PETITION
Filed: October 30, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 0088.02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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 and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of April 28, 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 Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

UNITED STATES DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVENUE, S.W.
ATTN: GC-62 (ALO), MS 6F-067
WASHINGTON, DC 20585-0162

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MAR 17 2008

In re Application of	:	
Regina L. Hunter	:	
Application No. 10/283,351	:	DECISION ON PETITION
Filed: October 25, 2002	:	TO WITHDRAW
Attorney Docket No. SD-6597 S 93882	:	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 24, 2007.

The request is **NOT APPROVED**.

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

The 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, "rights waved to Sandia National Laboratories", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SANDIA NATIONAL LABORATORIES
PO BOX 5800
ALBURQUERQUE, NM 87185-0161

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

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OFFICE OF PETITIONS

In re Application of Cheney et al. :
Application No. 10/283,357 :
Filing Date: October 30, 2002 :
Attorney Docket No. 723-1329 :

Decision on Petition

This is a decision on the petition under 37 C.F.R. § 1.181 filed March 8, 2010, to withdraw the holding of abandonment of the above-identified application.

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

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

The Office mailed a Final Office action on June 23, 2009, which set a shortened statutory period for reply of three (3) months.

A reply was filed September 22, 2009.

An Advisory Action mailed November 10, 2009, stated the amendment would not be entered because the amendment raised new issues that would require further consideration and search.

A letter filed November 23, 2009, stated,

> The undersigned attorney (Joseph Presta) and Jonathan Roberts participated in a telephone interview with Examiner Ade on November 23, 2009 in connection with the above-identified application. During the interview, the parties agreed that the Office action dated June 23, 2009 was made "final" prematurely. Thus, the Examiner agreed to issue a new non-final Office action in due course.

The record does not include an interview summary prepared by the examiner discussing the November 23, 2009 conversation.

The petition states the examiner's agreement to withdrawn the final Office action was telephonically confirmed with the examiner's supervisor, Matthew S. Gart. The petition does not identify the date the supervisor conformed the Office action would be withdrawn.

On December 30, 2009, the Office mailed an interview summary discussing a December 23, 2009 interview. The interview summary stated, "The Final Office Action sent on 06.22.2009 will be withdrawn. A new Non-Final Office action will be [mailed]."

The examiner did not withdraw the final Office action and a request for an extension of time was not obtained. As a result, the application became abandoned on September 24, 2009.

The Office mailed a Notice of Abandonment on March 1, 2010.

The instant petition was filed March 8, 2010.

Discussion

A party who believes the finality of an Office action is premature may file a petition under 37 C.F.R. § 1.181 requesting review of the finality of the Office action.[1] Although a petition under 37 C.F.R. § 1.181 was not filed in the instant case, petitioner did contact the examiner and the examiner's supervisor to discuss the finality of the Office action.

The petition asserts, on November 23, 2009, the examiner stated the final Office action would be withdrawn, and states the examiner's supervisor confirmed the Office action would be withdrawn. The petition does not state the date the supervisor confirmed the Office action would be withdrawn.

For purposes of *the instant* decision, the Office will assume, on November 23, 2009, the examiner and the examiner's supervisor clearly informed petitioner the final Office action, not just the finality of the Office action, would be withdrawn and a new non-final Office action would be mailed.

The application would not have become abandoned if the final Office action had been withdrawn during the six-month statutory time period set forth in 35 U.S.C. § 133. In other words, the application would not have become abandoned if the final Office action had been withdrawn on or before December 23, 2009.

The examiner did not withdraw the final Office action on or before December 23, 2009. The record fails to indicate whether or not the examiner, during the December 23, 2009 interview, indicated a notice withdrawing the final Office would be mailed on December 23, 2009, the last date such action could have been taken.

When a petition to withdraw the holding of abandonment is filed, the Office need not determine if holding the application abandoned is "fair." Instead, the only issue to be addressed is whether

[1] *See* § 706.07(c) of the Manual of Patent Examining Procedure ("MPEP") (8th ed., Rev. 4, Oct. 2005).

or not the application is actually abandoned. In this case, a proper reply was not filed in response to the final Office action and the Office action was not withdrawn within the six-month statutory period for reply. Therefore, the application is abandoned as a matter of law even if such a result is not "fair."

The petition states, if the petition under 37 C.F.R. § 1.181 is not granted, "Applicant conditionally petitions for a revival of the above-identified application." The petition also states, "Applicant should not have to go through the trouble and expense of petitioning for either unavoidable or unintentional abandonment."

The petition does not clearly state whether or not petitioner intends for the conditional petition to revive to be considered under 37 C.F.R. § 1.137(a), 37 C.F.R. § 1.137(b), or initially under 37 C.F.R. § 1.137(a) and in the alternative under 37 C.F.R. § 1.137(b). Therefore, the Office will not consider the merits of the "petition for a revival" at this time. Any future petition to revive should clearly indicate whether or not the petition is being filed under 37 C.F.R. § 1.137(a), 37 C.F.R. § 1.137(b), or 37 C.F.R. § 1.137(a) with a petition under 37 C.F.R. § 1.137(b) being filed in the alternative.

As a courtesy, the Office reminds petitioner a grantable petition under 37 C.F.R. § 1.137(a) or 37 C.F.R. § 1.137(b) must be accompanied by a reply to the outstanding Office action. A reply to a final Office action can be a Notice of Appeal, a request for continued examination, an amendment that cancels all rejected claims or otherwise prima face places the application in condition for allowance, or a continuing application under 37 C.F.R. § 1.53(b). As of the current date, a proper reply to the final Office action has not been filed.

As a courtesy, the Office notes, if a petition under 37 C.F.R. § 1.137(a) is filed, the petition should *fully* discuss the extent to which Petitioners' failure to file a request for an extension of time and reply to the final Office action on December 23, 2009, was reasonable. For example, if the examiner promised a notice withdrawing the Office action would be mailed by the end of the day during the interview on December 23, 2009 interview, petitioner should fully discuss whether or not to rely on the examiner and not to take any precautions to prevent the abandonment of the application was reasonable and prudent in view of the examiner's past failure to withdraw the Office action.

A "PDF fillable" form that can be used when filing a petition under 37 C.F.R. § 1.137(a) can be found at http://www.uspto.gov/web/forms/sb0061.pdf.

A "PDF fillable" form that can be used when filing a petition under 37 C.F.R. § 1.137(b) can be found at http://www.uspto.gov/web/forms/sb0064.pdf.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

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

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
P O BOX 10500
McLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Tosko A. Misev et al	:	
Application No. 10/283,362	:	DECISION GRANTING PETITION
Filed: October 30, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P 0292018/D1173	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 14, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 15, 2004. A Notice of Abandonment was mailed on June 1, 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 election of Group 1 (Claims 1-25); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of September 14, 2004 is accepted as having been unintentionally delayed.

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

inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney to prosecute this application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney 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 such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 1752 for appropriate action in the normal course of business on the reply received with the petition on December 19, 2005.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Paul L. Sharer
Mayer, Brown, Rowe & Maw LLP
1909 K Street NW
Washington, DC 20006

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MAY 04 2009

TECHNOLOGY CENTER 2100

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

In re Application of: CHOE, Myongsu
Application No. **10/283,363**
Filed: October 30, 2002
Atty. Docket No. P56634
Title: PREFIX AGGREGATION ALGORITHM FOR ROUTING COORDINATION PROTOCOL IN A LOOSELY COUPLED MASSIVELY PARALLEL ROUTER

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

This is a decision on the petition filed January 4, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Notice of Non-Compliant Amendment under 37 CFR 1.121 mailed on or about December 6, 2007.

This petition is **DISMISSED AS MOOT.**

RELEVANT PROSECUTION HISTORY

December 18, 2006	After final Amendment in response to final action mailed September 18, 2006, by which claims 3-5, 7, 13 and 19 were amended and claim 25 was added, was filed.
February 9, 2007	Advisory action was mailed in response to Applicant's Reply mailed 12/18/06 which denied entry of proposed amendment was filed.
February 16, 2007	Amendment After-final request for reconsideration filed in response to advisory action mailed 2/09/07. Amendment including drawings corrections, IDS and amendment to the specification.
March 19, 2007	RCE is filed to include previously submitted amendment filed 2/16/07.
March 20, 2207	Advisory Action in response to Amendment filed February 16, 2007
June 11, 2007	Non-final rejection is mailed in response to amendment filed 3/19/07.
September 19, 2007	Response to non-final action mailed 6/11/07 included amendments to the specification and to claims 1, 3, 5, 7, 8, 10-13, 15, 17-19, and 21-24

January 04, 2008 Petition under 37 CFR 1.181 for review by the Technology Center SPRE

DECISION

The notice of non-compliance mailed on or about December 6, 2007 has been removed from record. After final Amendment in response to final action mailed September 18, 2006, by which claims 3-5, 7, 13 and 19 were amended and claim 25 was added, was filed on December 18, 2006 has not been entered.

Applicant is encouraged to view all Private Patent Application Information Retrieval (Private PAIR) to view the Image File Wrapper (IFW) of instant application.

Accordingly, the petition is **DISMISSED AS MOOT.**

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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.
10/283,363	10/30/2002	Myongsu Choe	P56634	6923

7590 05/04/2009
Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

EXAMINER
LEE, PHILIP C

ART UNIT	PAPER NUMBER
2448	

MAIL DATE	DELIVERY MODE
05/04/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : August 5, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hajime Kimura
Application No. : 10/283,370
Filed : October 30, 2002

The above-identified application has been assigned Patent No. 6,930,678 and an issue date of August 16, 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 August 16, 2005:

> "All reference to Patent No. 6,930,678 to HAJIME KIMURA of JAPAN for SIGNAL LINE DRIVING CIRCUIT AND LIGHT EMITTING DEVICE appearing in the Official Gazette of August 16, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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AUG 0 5 2005
OFFICE OF PETITIONS

In re Application of :
Hajime Kimura :
Application No. 10/283,370 : ON PETITION
Filed: October 30, 2002 :
Attorney Docket No. 0756-7068 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 13, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated June 9, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2674 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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OFFICE OF PETITIONS

In re Application of	:	
Hajime Kimura	:	
Application No. 10/283,370	:	ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No.: 0756-7068	:	

This is a decision on the petition, filed February 16, 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 22, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2674 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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WASHINGTON, D.C. 20231
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Paper No. 4

LARSON & TAYLOR, PLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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JAN 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Noritaka Ban	:	DECISION GRANTING
Application No. 10/283,378	:	PETITION
Filed: 29 October, 2002	:	
Attorney Docket No. P07756US00/RFH	:	

This is a decision on the petition filed on 18 December, 2002, requesting that the above-identified application be accorded a filing date of 29 October, 2002, rather than the presently accorded filing date of 30 October, 2002.

Petitioners assert that the application was filed on 29 October, 2002, rather than on the presently accorded filing 30 October, 2002. In support, on 18 December, 2002, petitioners supplied a copy of a postcard receipt bearing the above-identified application number and an Office date of 29 October, 2002. The postcard includes the inventor's name, application docket number, the number of the Japanese priority document filed with the original application papers and itemizes the filing of a specification, drawings, declaration, assignment, priority document, IDS, transmittal letter, and fee of $780.00.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 12-0555, as authorized in the petition.

The application is being returned to Office of Initial Patent Examination for correction of the filing date to 29 October, 2002, and for issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 9

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Pfizer Inc.
201 Tabor Road
Morris Plains, NJ 07950

In re Application of
Patricia Santi, et. al.
Application No. 10/283,407
Filed: October 29, 2002
Attorney Docket No. 020022-C2-03-DCL

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 16, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 14, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight June 14, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $1330 for the petition to revive fee, an amendment, a terminal disclaimer under 37 CFR 1.321, along with the required $110 terminal disclaimer fee, and a three (3) months extension of time.

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 $950 extension of time submitted with the petition on October 16, 2003, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**

The application file is being forwarded to Technology Center 1600, for further review of the amendment and terminal disclaimer filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

1 0 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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George R. McGuire
Hancock & Estabrook, LLP
1500 MONY Tower 1
P.O. Box 4976
Syracuse, NY 13221-4976

In re Application of MORTON et al	:	
U.S. Application No.: 10/283,418	:	
Int. Application No.: PCT/GB01/02209	:	DECISION
Int. Filing Date: 17 May 2001	:	
Priority Date: 12 June 2000	:	
Attorney Docket No.: 812 P 006	:	
For: MOUTHPIECE FOR A PARTICULATE	:	
INHALER	:	

This is in response to applicant's "Petition Under 37 CFR 1.181" filed 18 November 2002, which is being treated as a petition under 37 CFR 1.182. The requisite petition fee has been received.

BACKGROUND

On 17 May 2001, applicant filed international application PCT/GB01/02209, which claimed priority of an earlier European Patent Office application filed 12 June 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 20 December 2001. Applicant filed a Demand for International Preliminary Examination on 20 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 at midnight on 12 December 2002.

On 29 October 2002, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, inter alia, fees in the amount of $780.00 and an executed declaration.

On 18 November 2002, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The papers filed 29 October 2002 included an improper transmittal letter. Furthermore, the basic national fee where the International Search was performed by the EPO was $890.00 on 29 October 2002. Thus, the $780.00 submitted was insufficient. However, the corrected transmittal letter filed 18 November 2002 contained an authorization to charge any required fees to a deposit account. Thus, the full basic national fee was provided on 18 November 2002. The corrected transmittal letter is accepted.

CONCLUSION

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

The application has an International Filing Date of 17 May 2001 and a date under 35 U.S.C. 371(c) of 18 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 including: (1) charging $150.00 to Deposit Account 50-0576 for the remainder of the requisite basic national fee and (2) replacing the 29 October 2002 transmittal letter with the corrected transmittal letter filed 18 November 2002.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of :
Darrel Janisch :
Application No. 10/283,427 : ON PETITION
Filed: October 29, 2002 :
Attorney Docket No. 7432.142US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed March 25, 2005. This decision precedes the mailing of a Notice of Abandonment.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 2841, for further processing of the request for continued examination under 37 CFR 1.114 filed October 14, 2005.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

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

In re Application of	:	
Stephen H. SIEGELE, et al	:	
Application No. 10/283,433	:	DECISION ON PETITION
Filed: October 30, 2002	:	TO WITHDRAW
Attorney Docket No. FOC 1100-3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 22, 2009.

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

A review of the file record indicates that the power of attorney to John L. Adair and the attorneys associated with Customer No. 44654, has been revoked by the assignee of the patent application on January 29, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

/Diane C. Goodwyn/
Diane C. Goodwyn
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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GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Tie Wang et al	:	
Application No. 10/283,436	:	ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No. APS02-012	:	

This is a decision on the petition, filed June 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 31, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2813 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 : June 13, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Tie Wang et al
Application No. :10/283,436
Filed :October 30, 2002

The above-identified application has been assigned Patent No. 6,911,356 and an issue date of June 28, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of *:

"All reference to Patent No. 6,911,356 to Tie Wang et al of Singapore for METHOD FOR FABRICATING A FLIP CHIP PACKAGE WITH PILLAR BUMP AND NO FLOW UNDERFILL appearing in the Official Gazette of June 28, 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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Paper No. 6
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MAY 05 2003

OFFICE OF PETITIONS

MCKAY & ASSOCIATES, PC.
801 MCNEILLY ROAD
PITTSBURG PA 15226

In re Application of
Dobrowolski & Banas
Application No. 10/283,443
Filed: October 30, 2002
Attorney Docket No. 2144
For: DETECTING MUTATIONS IN THE GALT GENE BY DNA MELTING CURVE ANALYSIS

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

This is in response to the petition under 37 CFR 1.47(a), filed February 25, 2003 (certificate of mailing date February 20, 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 30, 2002 without an executed oath or declaration. Accordingly, on December 2, 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 February 25, 2003 (certificate of mailing date February 20, 2003), a petition for a one 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 declaration of facts of Attorney Kenneth P. McKay accompanies the petition. Attorney McKay explains that non-signing joint inventor Dobrowolski received a copy specification, claims and drawings and a declaration for the above-identified application, but did not respond to the request that he sign the declaration for the patent application in a timely fashion.

A grantable petition under 37 CFR 1.47(a) requires

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

This petition lacks items (1) above.

As to item (1), Applicant has failed to establish that the inventor has refused to sign the declaration. The declaration sent to Dr. Dobrowolski, as shown in exhibit A to Attorney

McKay's affidavit, lists only Dr. Dobrowolski as an inventor. The Declaration presented to Dr. Dobrowolski should have set forth both joint inventors to ensure that Dr. Dobrowolski was aware of the other named inventor of the subject matter. See 37 CFR 1.63. Dr. Dobrowolski must be mailed a copy of the declaration that was submitted with the instant petition and signed by Mr. Banas with a request that he execute the declaration. If Dr. Dobrowolski does not respond to the request that he sign the declaration within a reasonable period of time, petitioner will have proven Dr. Dobrowolski's refusal to join in the filing of this 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 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

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MICROSOFT CORPORATION
C/O LYON & HARR, LLP
300 Esplanade Drive, Suite 800
Oxnard, CA 93036

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OFFICE OF PETITIONS

In re Application of	:	
John Deutscher et al.	:	
Application No. 10/283,467	:	DECISION ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No. MCS-020-02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 26 December 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 17 April 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 18 July 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 $1,540.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2174 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 200043-9998

In re Application of	:	
Bretten H. Whittacre, et al.	:	
Application No. 10/283,480	:	DECISION DISMISSING PETITION
Filed: October 29, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 80665.241599	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 10, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to 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) and (iii) 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.

The petition does not comply with item (1) above. In this regard, petitioner failed to submit an Application Data Sheet (ADS) or an amendment to the first sentence of the specification following the title to include a proper reference under 37 CFR 1.78(a)(2)(i). The statement contained in the petition is unacceptable as an "amendment." Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit an ADS or amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6).[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.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web[2]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: STEFAM J. KIRCHANSKI
575 7th STREET, NW
WASHINGTON, DC 20004

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[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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JUN 23 2009

OFFICE OF PETITIONS

In re Application of :
Bretten H. Whittacre, et al. :
Application No. 10/283,480 : DECISION ON PETITION
Filed: October 29, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 80665.241599 :

This is a decision on the renewed petition, filed June 2, 2009, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Application Data Sheet (ADS).

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 Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above. Petitioner failed to submit an ADS or an amendment to the first sentence of the specification following the title to include a proper reference under 37 CFR 1.78(a)(2)(i). The ADS submitted cites and claims benefit to Application No. 60/355,088. However, Application No. 60/355,088 does not name as an inventor at least one inventor named in the later-filed application nor does it disclose the named inventor's invention claimed in at least one claim of the later filed application in the manner provided by the first paragraph of 35 U.S.C. 112. Apparently, the wrong prior application has been cited.

In view of the above, an ADS or amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6), must be submitted.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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OFFICE OF PETITIONS

In re Application of
Bretten H. Whittacre, et al.
Application No. 10/283,480
Filed: October 29, 2002
Attorney Docket No. 80665.241599

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition, filed June 29, 2009, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the non-provisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. 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 3686 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

cc: MATTHEW J. SPARK
2049 CENTURY PARK EAST, SUITE 2100
LOS ANGELES, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/283,480	10/29/2002	3686	395	80665.241599	18	3

CONFIRMATION NO. 8317

CORRECTED FILING RECEIPT

26694
VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

OC000000037317055

Date Mailed: 08/12/2009

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)

Bretten H. Whittacre, Las Vegas, NV;
Troy Curnutt, Las Vegas, NV;

Power of Attorney: The patent practitioners associated with Customer Number 26694

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/335,088 10/30/2001

Foreign Applications

If Required, Foreign Filing License Granted: 08/11/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/283,480**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

ALGORITHM AND PROGRAM FOR THE HANDLING AND ADMINISTRATION OF RADIOACTIVE PHARMACEUTICALS

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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FEB 21 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Baker & Daniels
205 W. Jefferson Boulevard
Suite 250
South Bend, IN 46601

Paper No. 4

In re application of Michael B. Marshall et al. Application No. 10/283,533 Filed: October 30, 2002 For: HANDRAIL AND BRACKET ASSEMBLY	: : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 30, 2002 to make the above-identified application special. The delay in treating this petition is sincerely regretted.

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

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

The petition filed October 30, 2002 includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

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

snm : 2/12/03

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

PFIZER INC.
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of
Brake et al.
Application No. 10/283,540
Filed: October 30, 2002
Attorney Docket No. PC2302A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 9, 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 10, 2003. A Notice of Abandonment was mailed on February 9, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition

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

under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item (1). A review of the application file shows that a reply to the Notice was received on January 9, 2003. However, the declaration submitted lacks compliance with 37 CFR 1.63 and 1.64. The declaration fails to set forth the residence and mailing address for both inventors on the declaration. Therefore, a declaration in compliance with 37 CFR 1.63 and 1.64 is required. Accordingly, a new declaration which lists all the inventors with the proper information and is signed by all the signing inventors is required. See MPEP 409.

Petitioner submitted the $130.00 late declaration surcharge twice. Accordingly, the fee submitted with the instant petition on March 18, 2004 will be credited to petitioner's deposit account

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

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[2] See MPEP 711.03(c)(III)(C) and (D).

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 13

SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of
Brake et al.
Application No. 10/283,540
Filed: October 30, 2002
Attorney Docket No. PC23020A

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed June 28, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 9, 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 10, 2003. A Notice of Abandonment was mailed on February 9, 2004.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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NOV 10 2004

OFFICE OF PETITIONS

Applicant: Westre et al.
Appl. No.: 10/283,546
Filing Date: October 29, 2002
Title: METHOD FOR IMPROVING CRACK RESISTANCE IN FIBER-METAL-LAMINATE STRUCTURES
Attorney Docket No.: BOEI-I-1057
Pub. No.: US 2004/0081849 A1
Pub. Date: April 29, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on June 10, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a typographical error on the front page of the publication as the first inventor's name "Willard N. Westre" is misspelled as "Williard N. Westre".

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." 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 on the front page of the patent application publication, wherein the inventor's first name "Willard" is misspelled as "Williard" is an Office mistake, but it is not a material error under 37 CFR 1.221(b). The mistake is a minor typographical error. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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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).

On December 4, 2002 and March 5, 2003, Filing Receipts were mailed, which listed the inventor's name as "Williard N. Westre". To avoid this type of problem in the future, applicant's representative should review the filing receipt and make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

Applicant's request for a corrected patent application publication on June 10, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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

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

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/2905

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction on Patent No.: 10/283552 6887910

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 _____ **Art Unit** 1711

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GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE WI 53202

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
James M. Walker :
Application No. 10/283,577 : ON PETITION
Filed: October 29, 2002 :
Attorney Docket No. 005427-0005 :

This is a decision on the petition filed May 25, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned March 7, 2006 for failure to timely pay the issue fee on or before March 6, 2006. Accordingly, a Notice of Abandonment was mailed April 25, 2006.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/283,578	10/29/2002	Curtis Reese	10018639-1	7265

7590 04/08/2008
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER
VIG, NARESH

ART UNIT	PAPER NUMBER
3629	

MAIL DATE	DELIVERY MODE
04/08/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/08/2008 KKING1
12/06/2002 GGEBREGI 00000027 082025 10283578
02 FC:1202 342.00 CR

FORM PET651G (Rev. 08/07)

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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of
Scott Fahlman
Application No. 10/283,587
Filed: October 29, 2002
Title: Forces-Sensing Mouse Pointing Device For Computer Input

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of May 23, 2005. The final Office Action set a three (3) month shortened statutory period for reply. A reply and two month extension of time was obtained under the provisions of 37 CFR 1.136(a). An advisory action was mailed on November 29, 2005 stating that the October 26, 2005 (certificate of mailing October 23, 2005) reply failed to place the application in condition for allowance. Accordingly, this application became abandoned on October 24, 2005. A Notice of Abandonment was mailed on March 9, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The Request for Continued Examination (RCE), and amendment will be referred to Art Unit 2673 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Ido Tuchman
69-60 108th Street, Ste. 503
Forest Hills, NY 11375

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JAN 08 2007

OFFICE OF PETITIONS

In re Application of	:	
Ayumu Kobayashi	:	DECISION ON APPLICATION
Application No. 10/283,593	:	FOR
Filed: October 29, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281-4428	:	

This is a decision on the "PETITION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT," filed October 16, 2006. This request is made solely on the basis that the Office has failed to issue a patent within 3-years of the actual filing date of the application.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being held in abeyance until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). Thus, this period of adjustment is reflected in the revised patent term adjustment indicated on the patent.

Patentee is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated

in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicant is reminded 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 December 29, 2005.

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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SEP 10 2007
OFFICE OF PETITIONS

In re Patent No. 7,176,892	:	
Ayumu Kobayashi	:	DECISION ON APPLICATION
Application No. 10/283,593	:	FOR
Filed: October 29, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281-4428	:	

This is a decision on the "PETITION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT," filed March 29, 2007. Patentee requests that the patent term adjustment as indicated by the PAIR PTA adjustment history (and on the face of the patent) be corrected from four hundred eighteen (418) days to four hundred seventy-nine (479) days.

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

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

On February 13, 2007, the above-identified application matured into U.S. Patent No. 7,176,892. The instant request for reconsideration filed March 29, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 418 days. Patentee requests correction of the patent term adjustment to increase the patent term adjustment to 479 days on the basis that the patent issued in excess of 3 years after the date on which the application was filed and a request for continued examination (RCE) was filed in the application 3 years and 61 days after the date on which the application was filed.

The instant patent issued 3 years and 472 days after its filing date. Pursuant to 35 U.S.C. 154(B)(i), § 1.703(b)(1) provides, in pertinent part that:

> the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) … and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

Thus, the filing of a request for continued examination (RCE) cuts-off the applicant's ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment.

In this instance, a RCE was filed on December 29, 2005. Thus, the ability to accumulate additional patent term adjustment against the three-year pendency provision ended December 29, 2005. Accordingly, the period of adjustment under § 1.702(b) is 61 days.

However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 61 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 449 days attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment beyond the 449 days has accrued.

In view thereof, the patent properly issued with a patent term adjustment of 418 days (449 days reduced by 31 days).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

JAN 28 2003

UR
PAPER NO. 4

In re Application of
Aaron R. Garrity et al.
Serial Number: 10/283,600

Filed: October 30, 2002
For: NUTRACEUTICAL MANAGOSTEEN COMPOSITION

PETITION UNDER
M.PE.P. 708.02, II

This is in response to the petition filed, December 18, 2002 requesting that the above-identified application be granted Special Status under Section 708.02, II of the MPEP and 37 CFR 1.102(d) (fee paid).

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

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

Stephen H. Bean
2767 S. Irene Drive
Bountiful, UT 84010

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/16/07

Paper No.: ____

TO SPE OF : ART UNIT 2174

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/283602 Patent No.: 7185287B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: All 3 items okay

for Kristine Kincaid — 2174
SPE — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. None

Stephen B. Davis, Esq.
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
PO BOX 4000
PRINCETON NJ 08543-4000

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of
Jeffrey A. Ledbetter et al.
Application No. 10/283,610
Filing Date: October 29, 2002
Attorney Docket No. : ON0107E; 30436.18USD3
Title: EXPRESSION VECTORS ENCODING BISPECIFIC FUSION PROTEINS AND METHODS OF PRODUCING BIOLOGICALLY ACTIVE BISPECIFIC FUSION PROTEINS IN A MAMMALIAN CELL

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 23, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed 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
(2) a statement that the entire delay between the date the claim was due under 37
CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question
whether the delay was unintentional.

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

Petitioner has attempted to claim priority to several non-provisional applications, and has concluded his priority claim with the statement "the contents of all of which are incorporated by reference." This incorporation by reference attempt is improper, since an incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date[1].

MPEP 201.06(c)(IV) sets forth, in part:

If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).

As such, the petition cannot be granted.

The renewed petition should be accompanied by an amendment to the specification that does not contain the incorporation by reference statement, and should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

---

1 See 35 U.S.C. §132(a).

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300 - please note this is a central facsimile number.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. None

Stephen B. Davis, Esq.
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
PO BOX 4000
PRINCETON NJ 08543-4000

COPY MAILED

MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of
Jeffrey A. Ledbetter et al.
Application No. 10/283,610
Filing Date: October 29, 2002
Attorney Docket No. : ON0107E; 30436.18USD3
Title: EXPRESSION VECTORS ENCODING BISPECIFIC FUSION PROTEINS AND METHODS OF PRODUCING BIOLOGICALLY ACTIVE BISPECIFIC FUSION PROTEINS IN A MAMMALIAN CELL

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The original petition was submitted on May 23, 2005 and was dismissed via the mailing of a decision on September 20, 2005 due to an improper incorporation-by-reference statement in the concurrently filed amendment.

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 applications is submitted after expiration of the period specified in 37 CFR §1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR §1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(3) in that (1) a reference to the prior-filed applications was previously included in an application data sheet on May 23, 2005, 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 applications satisfies the conditions of 37 CFR §§ 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 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 applications, accompanies this decision on petition.

Regarding the incorporation by reference statement in the amendment filed with this renewed petition, as set forth in the decision on the original petition, an incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date[1]. Accordingly, the amendment is not acceptable as filed. However, the ADS filed on May 23, 2005 is acceptable, as it complies with the

1 See page 2 of decision on original petition and 35 U.S.C. §132(a).

requirements of 37 C.F.R. §1.78(a)(i), (iii). Based on the ADS of May 23, 2005, the petition filed on May 23, 2005 should have been granted. The Office sincerely apologizes for any inconvenience the oversight of the ADS may have caused Petitioner.

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.

This application is being forwarded to Technology Center Art Unit 1636 for appropriate action on the amendment submitted June 20, 2003, including consideration by the examiner of the claim for the benefit of the prior-filed applications.

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

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/283,610	10/29/2002	1636	1450	ON0107E; 30436.18USD3	18	11	1

CONFIRMATION NO. 7971

CORRECTED FILING RECEIPT

OC000000018430788

Stephen B. Davis, Esq.
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
PO BOX 4000
PRINCETON, NJ 08543-4000

Date Mailed: 03/31/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jeffrey A. Ledbetter, Seattle, WA;
Martha S. Hayden, Everett, WA;
Peter S. Linsley, Seattle, WA;
Jurgen Bajorath, Lynnwood, WA;
H. Perry Fell, Redmond, WA;
Lisa K. Gilliland, Oxford, UNITED KINGDOM;

Assignment For Published Patent Application

Bristol-Myers Squibb Company

Power of Attorney:

Sarah Adriano--34470

Domestic Priority data as claimed by applicant

This application is a DIV of 09/549,067 04/13/2000 PAT 6,623,940
which is a CON of 08/539,436 10/05/1995 PAT 6,132,992
which is a DIV of 08/121,054 09/13/1993 PAT 5,637,481
which is a CIP of 08/013,420 02/01/1993 ABN
and said 09/549,067 04/13/2000
is a CIP of 08/228,208 04/15/1994 PAT 6,090,914
which is a CIP of 08/008,898 01/22/1993 PAT 5,770,197
which is a CIP of 07/723,617 06/27/1991 ABN

Foreign Applications

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 US10/283,610

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Expression vectors encoding bispecific fusion proteins and methods of producing biologically active bispecific fusion proteins in a mammalian cell

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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ALEXANDRIA, VA 22313-1450
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Paper No. 6

Mark D. Passler
Suite 400
222 Lakeview Ave.
West Palm Beach, FL 33401

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Gotfried et al.
Application No. 10/283,614
Filed: October 30, 2002
Atty Docket No. 6686-56

DECISION ON PETITION

This is in response to the "Petition under 37 CFR § 1.181(a)(3)," filed February 4, 2003, requesting supervisory review of the issuance of an Updated Filing Receipt bearing a filing date of January 13, 2003 and requesting correction of the filing date to October 30, 2002.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on October 30, 2002. However, on November 29, 2002, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Items in a Nonprovisional Application." Applicants were thereby advised that the application had been accorded a filing date of October 30, 2002; however, figure 2d described in the specification appeared to have been omitted from the application.

Petitioners state that in response to this Notice, on January 8, 2003, they timely filed a Preliminary Amendment, deleting all references to Figure 2d in the specification. However, applicants subsequently received an Updated Filing Receipt bearing a filing date of January 13, 2003. Applicants submit that the Preliminary Amendment filed on January 8, 2003, overcame the requirements of filing Figure 2d with the application and that the application should be accorded the earlier filing date of October 30, 2002.

Petitioners' arguments are well-taken. An applicant is not required to file a petition in response to the mailing of a "Notice of Omitted Items." Rather, the Notice permits an applicant to not file a petition, and thereby, constructively accept the application as deposited in the USPTO. An applicant electing to take no action must then file a preliminary amendment amending the application to delete references to the omitted item.

Such a preliminary amendment was filed in this application on January 13, 2003. A review of the application file confirms that the Office erred in changing the filing date upon receipt of this amendment. Not the filing of this paper or any other paper (or

any other action taken) in this application required according of a later filing date. The application remained entitled to a filing date of October 30, 2002.

Given the basis for granting the petition, the request to refund the petition fee is also granted. The petition fee, although authorized, will not be charged to Deposit Account No. 50-0951.

The application file is being forward to the Office of Initial Patent Examination for **correction of the filing date to October 30, 2002**, and **mailing of a corrected filing receipt**.

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina L. Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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MAR 0 4 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of
Catalano, et al.
Application No. 10/283,615
Filed: October 30, 2002
Attorney Docket No. FOM-133.01
For: PH GLASS MEMBRANE AND SENSOR

This is a decision on the petition entitled, "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEMS," filed January 13, 2003 (certificate of mailing date January 9, 2003) , requesting, in effect, that the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 4, 2002, be withdrawn insofar as it alleges that Figures 5a and 5b were omitted on initial filing. The petition will be treated under 37 CFR 1.53(e).

The application was filed on October 30, 2002. However, on December 4, 2002, the Office of Initial Patent Examination mailed a Notice stating, *inter alia*, that Figure 5a and 5b described in the specification appeared to have been omitted.

In response, the present petition was filed. The petition does not allege and is not accompanied by any evidence that any sheet of drawing containing the labels "Fig. 5a" and Fig. 5b" was filed on October 30, 2002. A review of the application file reveals that the specification refers to a "Figure 5a" and a "Figure 5b", but the drawings present in the application file and resubmitted with the instant petition show only a "Fig.5". Petitioners referred to the drawings in an inconsistent manner.

Therefore, the "Notice" mailed December 4, 2002, was correct in advising applicants that Figures 5a and 5b appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn. The petition is **dismissed**.

The petition fee is required, since the petition was not necessary to correct any PTO error.

To avoid further delay in the examination of the application, a letter to the draftsman correcting the labeling of the drawing figures should be filed prior to the first Office action.

The application is being returned the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 30, 2002. Afterwards, the application will be forwarded to Technology Center 1700.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

CHARMASSON & BUCHACA
1545 HOTEL CIRCLE SOUTH
SUITE 150
SAN DIEGO CA 92108-3412

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JAN 2 8 2003

OFFICE OF PETITIONS

In re Application of
Villanueva
Application No. 10/283,621
Filed: October 29, 2002
Attorney Docket No. 2149.1-1
For: ANIMAL TRAINING APPARATUS AND METHOD

DECISION ON PETITION

This is a decision on the petition, filed December 31, 2002, requesting that page 9 of the specification be accorded a filing date of October 29, 2002. The petition will be treated under 37 CFR 1.53(e).

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

The application was filed on October 29, 2002. On November 29, 2002, the Office of Initial Patent Examination mailed a " Notice of Omitted Item(s) in a Nonprovisional Application" informing petitioner that page 9 of the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests an October 29, 2002 filing date for page 9 on the basis that the allegedly omitted page was received in the Patent and Trademark Office (PTO) on October 29, 2002. In support, the petition is accompanied by declarations of the attorney of record and the inventor who both reviewed the application prior to mailing and attest to the fact that page 9 was present.

The declarations by counsel and inventor submitted with the petition state without equivocation or doubt that they each checked the assembled application papers in the Express Mail envelope to determine that the application included page 9 of the specification.

The Office file is the official record of what was mailed by Express Mail or filed on October 29, 2002. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the routine events occurred.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioner is strongly encouraged to file his date stamped, itemized, postcard receipt.

Since page 9 was not a part of the papers filed on October 29, 2002, the application cannot be accorded a October 29, 2002 filing date with page 9 as a part of the original disclosure of this application.

Of course, applicant may submit page 9 in the form of an amendment (see 37 CFR 1.121) for consideration by the examiner to determine whether or not the page contains new matter compared to the original specification filed on October 29, 2002.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 29, 2002. Page 9, submitted with the instant petition will **not** be considered part of the original filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

CHARMASSON & BUCHACA
1545 HOTEL CIRCLE SOUTH
SUITE 150
SAN DIEGO CA 92108-3412

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of
Villanueva
Application No. 10/283,621
Filed: October 29, 2002
Attorney Docket No. 2149.1-1
For: ANIMAL TRAINING APPARATUS AND METHOD

DECISION ON PETITION

This is a decision on the reconsideration petition, filed February 11, 2003 (certificate of mailing date February 4, 2003), requesting that page 9 of the specification be accorded a filing date of October 29, 2002. The petition will be treated under 37 CFR 1.53(e).

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

The application was filed on October 29, 2002. On November 29, 2002, the Office of Initial Patent Examination mailed a " Notice of Omitted Item(s) in a Nonprovisional Application" informing petitioner that page 9 of the specification appeared to have been omitted. A petition under 37 CFR 1.53(e), filed on December 31, 2002, was dismissed on January 28, 2003 for failure to provide adequate evidence that page 9 was filed on October 29, 2002.

Petitioner requests an October 29, 2002 filing date for page 9 on the basis that the allegedly omitted page was received in the Patent and Trademark Office (PTO) on October 29, 2002. In support, the petition is accompanied by a copy of applicant's postcard receipt showing an Office of Initial Patent Examination generated barcode showing October 29, 2002 as the date of receipt. The postcard does not list how many pages of specification were filed.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503. The itemized postcard in this case was not properly itemized. The initial reviewers compare/contrast the application papers before them to the postcard receipt. The postcard receipt in this case did not identify how many pages were in the specification. Therefore, the postcard receipt cannot be relied upon to prove a missing page of the specification was received.

Since page 9 cannot be proved to be one of the papers filed on October 29, 2002, the application

cannot be accorded a October 29, 2002 filing date with page 9 as a part of the original disclosure of this application.

Petitioner may still submit page 9 and a petition under 37 CFR 1.182 requesting a filing date as of the date page 9 was filed.

If petitioner does not select the above option, petitioner must either (1) file an amendment to the specification deleting references to missing page 9 prior to the first USPTO action in order to avoid further delays in the examination of the application or (2) in the alternative, submit page 9 as a preliminary amendment. Any such amendment will, of course, be reviewed by the examiner for new matter compared to the original specification filed on October 29, 2002. See MPEP 608.02(a).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 29, 2002. Page 9 will **not** be considered part of the original filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 19 2004

Paper No. 5

In re Application of	:	
Bruce E. Byers	:	
Application No. 10/283,624	:	DECISION ON PETITION
Filed: April 2, 2002	:	
Attorney Docket No. MCC 01455C2US	:	

This is a decision on the petition filed on June 7, 2004, as resubmitted by facsimile transmission on September 24, 2004, by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the Office action dated October 24, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply, the reply having a 37 CFR 1.8(a) certificate of mailing affixed thereto and dated November 5, 2003, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for formal entry of the reply that is attached to the petition. The date to which the reply is entitled is November 5, 2003. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Lada & Parry
26 West 61st Street
New York, NY 10023

10/283,629

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/5/04

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6710072

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

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

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

Lamonte Newsome

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

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

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

Comments:

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.go

Paper No. 12

KEVIN L. RUSSELL
SUITE 1600
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

COPY MAILED

SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Andrews et al.	:	
Application No. 10/283,632	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. KLR 1016.0071	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 6, 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 non-final Office action mailed December 2, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on March 3, 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 July 6, 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.

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

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

10-6-08

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

Patent No. : 7,352,258 b2
Inventor(s) : Mike Andrews, et. al.
Issued : April 1, 2008
For: WAVE/GUIDE ADAPTER FOR PROBE ASSEMBLY HAVING A DETACHABLE BIAS TEE
Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under Rule 1.322.

Column 7, line 34 is printed in accordance with the record.

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

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

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Kevin L. Russell
Chemoff, Vilhauer, McClung & Stenzel
601 SW Second Avenue, Suite 1600
Portland OR 97204

ej

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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LATHROP & GAGE L.C.
4845 PEARL EAST CIRCLE, SUITE 300
BOULDER, CO 80301

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Curtis A. Vock et al :
Application No. 10/283,642 : ON PETITION
Filed: October 30, 2002 :
Attorney Docket No. 400721

This is a decision on the petition, filed November 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2857 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).

10283642

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2606

Paper No.: _____

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction on Patent No.: 6959259B2

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:

Should have been issued with 3 inventors, all oaths are signed. OK to correct.

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2857
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 092204

OCT 26 2004

MARSH FISCHMANN & BREYFOGLE LLP
3151 S. VAUGHN WAY, SUITE 411
AURORA, CO 80014

In re Application of:	:	
KURT R. VOGEL *et al.*	:	
Serial No.: 10/283,649	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: October 29, 2002	:	
Attorney Docket No.: **50043-00014**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 09, 2004.

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

The request meets all the above stated requirements. The request was signed by Robert G. Crouch, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

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

All future communications from the Office will be directed to the assignee, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SALLY HATCHER
PRECISION PHOTONICS CORPORATION
2901 55TH STREET
BOULDER, CO 80301

UNITED STATES 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. 15

RICHARD B. TAYLOR
P O BOX 88940
ST. LOUIS, MO 63188

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of
Doyle H. Waggle et al
Application No. 10/283,671
Filed: October 30, 2002
Attorney Docket No. SP-1096.6

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/11/06

TO SPE OF : ART UNIT 1752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10283685 Patent No.: 6994939

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Valerie Jackson

Certificates of Correction Branch

703-308-9390 ext. _____

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: _____

Barbara L. Gilliam 6/30/06

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1752
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Cynthia H Kelly

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

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AUG 16 2006
OFFICE OF PETITIONS

In re Application of Taylor et al. :
Application No. 10/283,691 : Decision on Petition
Filing Date: October 30, 2002 :
Attorney Docket No. 04-1403 :

This is a decision on the petition under 37 CFR 1.181, filed September 30, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

A final Office action was mailed November 23, 2004.

A reply was not received.

A Notice of Abandonment was mailed July 28, 2005.

Petitioner contends, and has established, non-receipt of the Office action.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The final Office action mailed November 23, 2004, is vacated.

Technology Center Art Unit 3653 will be informed of the instant decision. Since the prior final Office action has been vacated, the examiner will treat the amendment filed with the petition as a supplement to the amendment filed June 26, 2004.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTOINETTE M. TEASE
P. O. BOX 51016
BILLINGS MT 59105

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FEB 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Ronn G. Smith et al.	:	
Application No. 10/283,694	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. BHV-Quick-NonProv	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 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 October 1, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 3, 2005. The Notice of Abandonment was mailed April 14, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 3753 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 10

Alvin J. Riddles
Box 34, Candlewood Isle
New Fairfield CT 06812

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ning :
Application No. 10/283,705 :
Filed: October 30, 2002 :
Attorney Docket No. YOR920020133US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the nonfinal Office action mailed November 21, 2003, which set a three-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on February 22, 2003. A Notice of Abandonment was mailed on June 15, 2004.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an Amendment, paid the petition fee, and made the proper statement of unintentional delay.

The file is being forwarded to Technology Center Art Unit 2811.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 12

Reza Green, Esq.
Novo Nordisk Pharmaceuticals, Inc.
100 College Road West
Princeton NJ 08540

COPY MAILED

OCT 2 4 2003

OFFICE OF PETITIONS

In re Application of Johannessen et al. Application No. 10/283,751 Filed: October 30, 2002 Attorney Docket No. 6326.504-US	: : : : :	DECISION ON PETITION

This is in response to the "Petition under 37 CFR 1.182," filed June 3, 2003. This petition was recently forwarded to attorney Johnson for consideration.

Application papers in the above-identified application were received on October 30, 2002. However, on December 9, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants *inter alia* that the application papers had not been accorded a filing date because the application was deposited without drawings.

In reply, applicants filed a response, including six (6) sheets of drawings. Applicants asserted that the drawings were entitled to a filing date of October 30, 2002 because the omitted drawings were contained in other documents that were incorporated by reference. A review of the application-as-filed reveals that it contained an incorporation by reference statement, incorporating the entire disclosure of the priority documents. However, the drawings could not be accorded a filing date of October 30, 2002 based on incorporation by reference, as provided for on petition under § 1.182 pursuant to MPEP 201.06. Although the response could be treated as a petition and the petition fee charged pursuant to the general authorization to charge required fees, the response did not include an amendment submitting the omitted material. More importantly, it did not <u>appear</u> that the six (6) sheets of drawings submitted as the response were true copies of drawing sheets present in the priority documents. It was requested that any petition under § 1.182 submitted include a specific reference, including Patent Application No. and page number, to the drawing sheets being incorporated from the priority documents. Further, any referenced priority document should be present in the application file.

Nonetheless, based on the presence of method claims, as provided for in MPEP § 601.01(f), the application <u>without</u> drawings was accorded a filing date of October 30, 2002. The application file

was forwarded to the Office of Initial Patent Examination (OIPE) for according of a filing date of October 30, 2002, using the application papers received in the Office on that date, and for indication in the records of the Office that the application contained zero (0) sheets of drawings on filing.

Prior to such action on the application by OIPE, applicants filed the instant petition under § 1.182. It was previously determined that the application-as-filed included a proper incorporation by reference statement. It is now specifically noted that this statement incorporates, among other things, the entire contents of international priority application, PCT/DK01/00302. The drawings submitted on petition are from this international application. The petition includes an amendment requesting that the drawings from the international priority application be included in the instant application based on the incorporation by reference statement.

In view thereof, the petition under § 1.182 is **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for **according of a filing date of October 30, 2002**, using the application papers received in the Office on that date and the drawings supplied on June 3, 2003.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

#9

Attorney Docket No.: 6326.504-US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FAX RECEIVED
JUN 03 2003
PETITIONS OFFICE

In re Application of: Johannessen et al.

Serial No.: 10/283,751 Group Art Unit: To be assigned

Filed: October 30, 2002 Examiner: To be assigned

For: Subcutaneous Administration of Coagulation Factor VII

PETITION UNDER 37 C.F.R. 1.182

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Petition mailed May 14, 2003, applicants hereby petition for a filing date of October 30, 2002 to be applied to the drawings in this application. The filing date of October 30, 2003 has already been applied to the remainder of the subject matter of this application.

Applicants request that a filing date be accorded based on an incorporation by reference statement.

Applicants hereby submit a copy of the drawings that were incorporated by reference. The copy is an exact duplicate of the drawings in the priority application. Specifically, pages 1-6 correspond to pages 1-6 of the drawings present after the specification of application no. PCT/DK01/00302 filed May 3, 2001 and published November 8, 2001 which is referred to in the Preliminary Amendment filed October 30, 2002.

The Commissioner is hereby authorized to charge the fee of $130 in connection with this application and to credit any overpayments to Deposit Account No. 14-1447. Please charge any additional fees, should they be required, to Deposit Account No. 14-1447. A duplicate of this sheet is enclosed.

Respectfully submitted,

Date: June 3, 2003

Reza Green, Reg. No. 38,475
Novo Nordisk Pharmaceuticals, Inc.
100 College Road West
Princeton, NJ 08540
(609) 987-5800

23650
PATENT TRADEMARK OFFICE

(12) INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(19) World Intellectual Property Organization
International Bureau

(43) International Publication Date
8 November 2001 (08.11.2001)

PCT

(10) International Publication Number
WO 01/82943 A2

(51) International Patent Classification[7]: A61K 38/00

(21) International Application Number: PCT/DK01/00302

(22) International Filing Date: 3 May 2001 (03.05.2001)

(25) Filing Language: English

(26) Publication Language: English

(30) Priority Data:

PA 2000 00734	3 May 2000 (03.05.2000)	DK
PA 2000 01360	13 September 2000 (13.09.2000)	DK
PA 2000 01361	13 September 2000 (13.09.2000)	DK
PA 2001 00477	22 March 2001 (22.03.2001)	DK

(71) Applicant *(for all designated States except US)*: NOVO NORDISK A/S [DK/DK]; Novo Allé, DK-2880 Bagsvaerd (DK).

(72) Inventors; and
(75) Inventors/Applicants *(for US only)*: JOHANNESSEN, Marie [DK/DK]; Lindebakken 31, DK-3460 Birkerød (DK). NORDFANG, Ole, Juul [DK/DK]; Selskovvej 6, DK-3400 Hillerød (DK). JANSEN, Jens, Aas [DK/DK]; Engbakkevej 14, DK-2929 Charlottenlund (DK).

(74) Common Representative: NOVO NORDISK A/S; Corporate Patents, Novo Allé, DK-2880 Bagsvaerd (DK).

(81) Designated States *(national)*: AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CR, CU, CZ, DE, DK, DM, DZ, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, TZ, UA, UG, US, UZ, VN, YU, ZA, ZW.

(84) Designated States *(regional)*: ARIPO patent (GH, GM, KE, LS, MW, MZ, SD, SL, SZ, TZ, UG, ZW), Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE, TR), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GW, ML, MR, NE, SN, TD, TG).

Published:
— *without international search report and to be republished upon receipt of that report*

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.

WO 01/82943 A2

(54) Title: SUBCUTANEOUS ADMINISTRATION OF COAGULATION FACTOR VII

(57) Abstract: The invention relates to the use of a Factor VIIa for the manufacture of a medicament for treatment of a condition affectable by Factor VIIa, said medicament being for subcutaneous, intra-muscular or intradermal administration, and to the use of a Factor VIIa for the manufacture of a medicament for treatment of a condition affectable by Factor VIIa, wherein said medicament, when administered subcutaneously, intradermally or intramuscularly, shows a prolonged biological half-life.

#9

Attorney Docket No.: 6326.504-US PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Johannessen et al.

Serial No.: 10/283,751 Group Art Unit: To be assigned

Filed: October 30, 2002 Examiner: To be assigned

For: Subcutaneous Administration of Coagulation Factor VII

FAX RECEIVED
JUN 0 3 2003
PETITIONS OFFICE

CERTIFICATE OF FACSIMILE TRANSMISSION

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

I hereby certify that the attached correspondence comprising:

1. Petition under 37 CFR 1.182 (in duplicate)
2. Amendment

was sent to the United States Patent and Trademark Office by telefax to the attention of Examiner Nancy Johnson, fax number (703) 308-6916 .

Respectfully submitted,

Date: June 3, 2003

Dolly Kapadia

Dolly Kapadia
Novo Nordisk® Pharmaceuticals, Inc.
100 College Road West
Princeton, NJ 08540
(609) 987-5800

UNITED STATES 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

Reza Green, Esq.
Novo Nordisk Pharmaceuticals, Inc.
100 College Road West
Princeton NJ 08540

COPY MAILED

MAY 14 2003

OFFICE OF PETITIONS

In re Application of Johannessen et al. Application No. 10/283,751 Filed: October 30, 2002 Attorney Docket No. 6326.504-US	: : : : :	DECISION ON PETITION

This is in response to the "Response to Notice of Incomplete Nonprovisional Application," filed December 24, 2002, requesting that the above-identified application be accorded a filing date of October 30, 2002, based on the incorporation by reference of omitted drawings.

As explained herein, this paper should have properly been filed as a petition under 37 CFR § 1.182, requesting that a filing date be accorded based on an incorporation by reference statement; or as a petition under 37 CFR § 1.53(e)(2), requesting review of the "Notice of Incomplete Nonprovisional Application" mailed December 9, 2002. Accordingly, a petition fee is necessary for consideration of the request, and pursuant to the authorization submitted, has been charged to Deposit Account No. 14-1447.

Application papers in the above-identified application were received on October 30, 2002. However, on December 9, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants *inter alia* that the application papers had not been accorded a filing date because the application was deposited without drawings.

In reply, applicants filed the instant response, including six (6) sheets of drawings. Applicants asserted that the drawings were entitled to a filing date of October 30, 2002 because the omitted drawings were contained in other documents that were incorporated by reference. Applicants further stated that they would submit a petition to correct the filing date, if necessary. Included with the response was an authorization to charge any required fees to Deposit Account No. 14-1447.

A review of the application-as-filed reveals that it contained an incorporation by reference statement, incorporating the entire disclosure of the priority documents. MPEP 201.06 provides in, pertinent part, that:

> Material needed to accord an application a filing date may

> not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.

This section applies to the incorporation of priority documents into the instant application. Accordingly, pursuant to MPEP 201.06, a petition under § 1.182, an amendment submitting the omitted material, and petition fee are necessary.

Furthermore, the omitted drawings may be entered into this application based on the incorporation by reference only if they are the drawings present in the priority documents. (No new matter may be introduced into an application after its filing date). The certified copies of the foreign applications of record in the application have been reviewed. It does not appear that the six (6) sheets of drawings submitted on petition are true copies of drawing sheets present in the priority documents. Accordingly, a petition under § 1.182 can not now be granted. If petitioner wishes to resubmit a proper petition under § 1.182, any such petition should include a specific reference, including Patent Application No. and page number, to the drawing sheets being incorporated from the priority documents. Further, any referenced priority document should be present in the application file.

Any petition under § 1.182 must be filed within TWO (2) MONTHS of the mailing date of this communication. See § 1.181(f). This period is not extendable under § 1.136(a)[1].

Nonetheless, the application without drawings[2] is entitled to a filing date of October 30, 2002. A review of the application as

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[1] It is further encouraged that such petition be submitted by facsimile transmission to Petitions Attorney Nancy Johnson at facsimile number 703-308-6916, with a call being concurrently made to attorney Johnson at 703-305-0309 to advise her to expect the petition.

[2] The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office. 35 U.S.C. 111(a)(4). (emphasis supplied).

filed reveals that it contains method claims[3]. It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). MPEP § 601.01(f). (Petitioner is advised that in a situation in which the appropriate examining group later determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the PTO.) Since the original application papers filed October 30, 2002 contained at least one method claim, the application, containing a specification and at least one claim, was complete within the meaning of § 1.53(b), and entitled to a filing date of October 30, 2002.

Accordingly, the application will be accorded the October 30, 2002 filing date with no drawings as a part of the original disclosure of the application.

In regards to withdrawing the Notice, MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, ... directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawings figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

It is noted that the specification filed on October 30, 2002, describes drawings containing Figures 1-3, but no drawings were filed on October 30, 2002. Given the presence of method claims in the application-as-filed, it is concluded that the "Notice of Incomplete Application" mailed December 9, 2002, was mailed in error and is hereby **withdrawn**.

Nonetheless, applicant's reference to drawings in the specification would have warranted the Office mailing applicant a "Notice of Omitted Items." Thus, it would still have been necessary for applicant to file a petition under § 1.53(e)(2) (and pay the petition fee).

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for according of a filing date of October 30, 2002, using the application papers received in the

---

[3] The application as filed on October 30, 2002, included a preliminary amendment adding method claims.

Office on that date, and for indication in the records of the Office that the application contains zero (0) sheets of drawings.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Beverly M. Flanagan for

Nancy Johnson
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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MAY 1 1 2006
OFFICE OF PETITIONS

In re Application of
Marie Johannessen et al.
Application No. 10/283,751
Filed: October 30, 2002
Attorney Docket No. 6326.504-US

ON PETITION

This is a decision on the petition, filed February 7, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **granted**.

This application became abandoned on September 9, 2004, for failure to timely submit a substitute CRF copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), (f), (g), 1.825(b), or (d), as required by the Notice to Comply with Requirements for Patent Applications Containing Nucleotide

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Sequence and/or Amino Acid Sequence Disclosures, mailed July 8, 2004. The Notice set a two (2) month period for reply. Accordingly, a Notice of Abandonment was mailed January 25, 2006.

The application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NATIONAL INSTITUTE OF HEALTH
C/O Ballard Spahr LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Andrew M. L. Chan	: DECISION ON REQUEST FOR
Patent Number	: 7605127	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/283,769	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/18/05

Paper No.: _____

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No. 6818652 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert
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:

Thomas McKelvie — **SPE**

1625 — **Art Unit**

PTO/SB/44 (07-03)
Approved for use through 01/31/2004. OMB 0651-0033
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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 : 6,818,652 B2

DATED : November 16, 2004

INVENTOR(S) : Michael Klaus, et al

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In the Claims:

Column 50, line 31, " $R^{102}C\text{-}CR^{102}$-, -C=C-, "should read -- -$R^{102}C{=}CR^{102}$-, -C≡C- --;

Column 51, line 8, " 13 C(O)NR10-, " should read -- C(O)NR10-, --.

MAILING ADDRESS OF SENDER: ROCHE PALO ALTO LLC
Patent Law Dept. M/S A2-250
3431 Hillview Avenue
Palo Alto, CA 94304

PATENT NO. 6,818,652 B2

No. of additional copies

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.

APR 0 5 2005

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/283,859	10/30/2002	Hiroyuki Nemoto	NSG-216US	9194

23122 7590 01/19/2006

RATNERPRESTIA
P O BOX 980
VALLEY FORGE, PA 19482-0980

EXAMINER
MARTINEZ, JOSEPH P

ART UNIT	PAPER NUMBER
2873	

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Application of	:	
William E. Meyers et al.	:	DECISION ON PETITION
Serial No.: 10/283,859	:	UNDER 37 CFR 1.48(b)
Filed: 10/05/2000	:	
For: ERECT IMAGE RESIN LENS ARRAY AND THE MANUFACTURE THEREOF	:	

In view of the papers filed on October 14, 2005 under 37 CFR 1.48(b), the inventorship in this nonprovisional application has been changed by the deletion of Shiro Sato. Thus, the Petition is granted.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Ricky L. Mack
Supervisory Patent Examiner
Art Unit 2873

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

12/31/03

Testa Hurwitz and Thibeault LLP
High Street Tower
125 High Street
Boston MA 02110

Dear Applicant:

The Box PGPub replacement drawings for application number 10/283,873 received on 11/13/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
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Signature of Reviewer, Office of Initial Patent Examination

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

WK

PAPER NO. 4

In re Application of
B. Raghava Reddy et. al
Serial No:10/283,877
Filed: October 30, 2002
For: COMPOSITIONS FOR SOLVING
LOST CIRCULATION PROBLEMS

PETITION UNDER
M.P.E.P. 708.02, IV

This is in response to the petition filed October 30, 2002, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Craig W. Roddy
Halliburton Energy Services
P.O. Box 1431
Duncan, OK 73536-0440

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ExxonMobil Chemical Company
5200 Bayway Drive
P. O. Box 2149
Baytown, TX 77522-2149

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OFFICE OF PETITIONS

In re Application of :
Xiaobing Feng, et al. :
Application No. 10/283,879 :
Filed: October 30, 2002 :
Attorney Docket No. 2001B059A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1700.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

MAILED

SEP 1 4 2005

Technology Center 2100

In re Application of: Lane, et al.	)	
Application No. 10/283,904	)	**DECISION ON PETITION TO**
Attorney Docket No. 020591	)	**WITHDRAW HOLDING OF**
Filed: 29 October 2002	)	**ABANDONMENT UNDER 37 CFR**
For: MULTIMEDIA TRANSMISSION	)	**§1.181**
USING VARIABLE ERROR CODING	)	
RATE BASED ON DATA IMPORTANCE	)	

This is a decision on the petition, filed 15 November 2004 requesting that the Abandoned Status be withdrawn on the above-identified application, which was deemed to be lacking a reply from the Applicant to the 24 February 2004 Office Action.

The petition is **MOOT**.

Reviewing the Official records, it appears that the prosecution/examination of the case has advanced as Applicant did properly respond to the 24 February 2004 Action. Since Applicant filed the petition, the Office has entered the Amendment dated 23 June 2004, and subsequent action has continued in the above-identified Application. Hence, the matter of a missing reply or abandoned case status is no longer at issue.

Any questions regarding this decision may be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

GO

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MCCARTER & ENGLISH LLP
FOUR GATEWAY CENTER
100 MULBERRY ST
NEWARK NJ 07102

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OFFICE OF PETITIONS

In re Application of	:	
Urken, et al.	:	
Application No. 10/283,927	:	ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No. 10201/1	:	

This is a decision on the alternative petitions under 37 CFR 1.137(a) and 1.137(b), filed February 28, 2005, which are being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed July 2, 2004. This Office action set a shortened statutory period for reply of three months. No extensions of time were obtained. Accordingly, no reply having been received, the above identified application became abandoned on October 3, 2004. A Notice of Abandonment was mailed on January 11, 2005.

Petitioner argues that he timely changed the correspondence address in a declaration and power of attorney filed on June 6, 2003. However, according to petitioner, the July 2, 2004 Office action was erroneously mailed to the prior address of record.

A review of the application file reveals that it the declaration and power of attorney filed June 6, 2003 was never entered. Accordingly, the July 2, 2004 Office action was erroneously mailed to the prior address of record.

In view thereof, **the holding of abandonment is withdrawn.**

Given the basis for granting this decision, the $750 petition fee will be refunded to petitioner under separate cover.

Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to Group Art Unit 3623 for consideration of the amendment filed February 28, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)273-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER, CO 80201-1920

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OFFICE OF PETITIONS

In re Application of	:	
Michael L. Frank	:	
Application No. 10/283,971	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. 10020447-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 3, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 4, 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 final Office action of February 3, 2005 is accepted as having been unintentionally delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2815.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: PAMELA LAU KEE
AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY/ADMINISTRATION
LEGAL DEPT. MS DL429, 815 SW 14TH ST
LOVELAND, CO 80537

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JAN 11 2006

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of	:
Mitch Raponi	:
Serial No.: 10/283,975	: PETITION DECISION
Filed: October 30, 2002	:
Attorney Docket No.: CDS-293	:

This is in response to the petition under 37 CFR § 1.181 and 37 CFR § 1.144, filed October 6, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed on October 30, 2002, and contained claims 1-24.

In a first Office action, mailed August 9, 2005, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

> Group I, claims 1-8, drawn to a method of determining if a patient will respond to treatment with an FTI, requiring sequences identified in tables 1-3.
> Group II, claims 9-17, drawn to a method of treating a patient, requiring sequences identified in table 1-3.
> Group III, claims 18-24, drawn to articles and kit for assessing the efficacy of treatment of a patient, requiring sequences identified in tables 1-3.

The examiner reasoned that the inventions of Group I and group II were divergent in method steps and end results and were thus unrelated, and would require separate and distinct searches. The examiner also reasoned that the inventions of Group III and I are related as product and process of use, and that the product of Group III can be used in a materially different process. The examiner further reasoned that the inventions of Group III and II are related as product and process of use, and that the product of Group III can be used in a materially different process.

The examiner also required applicant to elect a specific SEQ ID NO. for examination.

On August 18, 2005, applicant filed a Response and elected Group III, claims 18-24, drawn to a method of determining if a patient will respond to treatment with an FTI, with traverse. Applicant did not elect particular nucleic acid sequences because applicant felt that requiring applicant to select a since nucleic acid sequence to prosecute is the same as requiring applicant to redefine their invention.

The examiner mailed a non-final Office action to applicant on September 7, 2005, in which the examiner acknowledged applicant's election with traverse of group III, claims 18-24. However, the examiner pointed out that the Response was not fully responsive because applicant did not elect particular nucleic acid sequences. Applicant was given one month or 30 days to elect a single sequence in response to this letter in order to avoid abandonment.

On September 28, 2005, applicant filed a Response and elected claims directed to the articles and kits for detecting the expression of the gene having the Genbank accession number AC009220 (SEQ ID NO. 236).

Applicant replied on October 6, 2005 by filing this petition.

DISCUSSION

MPEP 818.03(c) and 37 CFR § 1.144 state that after a final requirement for restriction, the applicant may petition the Commissioner to review the requirement. In this case, the requirement for restriction has not been made final.

Therefore, applicant's petition is DISMISSED as premature.

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.

Jasemine Chambers
Director, Technology Center 1600

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Paper No.

HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY NY 12207

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OFFICE OF PETITIONS

In re Application of	:	
Ahlheim et al.	:	
Application No. 10/283,989	:	ON APPLICATION FOR
Filed: October 30, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. VAND-0021-US	:	
Title: ORGANIC COMPOUNDS	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 21, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, one hundred and sixty-one (1161) days, not three hundred (300) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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4/8/09

Patent No. :7474212
Ser. No. :11176929
Inventor(s) :Nakagawa
Issued : 1/6/09
Title : OBJECT TAGGED WITH RFID TAG AND DEVICE AND METHOD FOR PROCESSING IT
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

OHLANDT GREELEY RUGGIERO & PERLE LLP
One Landmark Square, 10th Floor
Stamford, CT 06901-2682

HR

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-9-06

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/284025 Patent No.: 6982872

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

E. Jones
Certificates of Correction Branch
703-308-9390 ext. _____

Should req. be granted? Thanks
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 wrong set of claims were printed in the patent. Applicant filed a RCE on 3/14/05, which amended the claims. The printer printed the claims as amended by the responce dated 3/4/04. Please correct US 6,982,872 as requested.

Thank you
LL-E

LYNN FEILD
SUPERVISORY PATENT EXAMINER
~~TECHNOLOGY CENTER 2800~~
SPE

2835
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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GEHRKE & ASSOCIATES SC
123 NORTH 86TH ST
WAUWATOSA WI 53226

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of		
Lieberman, et al.	:	
Application No. 10/284,026	:	DECISION ON
Filed: October 30, 2002	:	PETITION
Attorney Docket No. 3005.002	:	

This is in response to the petition to withdraw the holding of abandonment, filed June 23, 2006 (Certificate of Mailing dated June 14, 2005).

The petition is **DISMISSED**.

Petitioner is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. **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 held abandoned for failure to timely pay the statutory basic filing fees in response to the Notice to File Missing Parts of Nonprovisional Application mailed January 28, 2004. This notice set a two (2) month extendable period for reply. No response having been received, the application was held abandoned on March 29, 2004. A Notice of Abandonment was mailed on June 9, 2005.

Petitioner states, and a review of the record confirms, that the application as filed contained an authorization to charge any necessary fees to the Deposit Account.

However, as of the mailing date of this decision, Deposit Account No. 50-2241 did not contain a sufficient balance to charge the $370 statutory basic filing fee in effect on October 23, 2002. Before the petition can be granted and the holding of abandonment withdrawn, petitioner must submit the $370 statutory basic filing fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of		
Lieberman, et al.	:	
Application No. 10/284,026	:	DECISION ON
Filed: October 30, 2002	:	PETITION
Attorney Docket No. 3005.002	:	

This is in response to the renewed petition to withdraw the holding of abandonment, filed July 27, 2006.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely pay the statutory basic filing fees in response to the Notice to File Missing Parts of Nonprovisional Application mailed January 28, 2004. This notice set a two (2) month extendable period for reply. No response having been received, the application was held abandoned on March 29, 2004. A Notice of Abandonment was mailed on June 9, 2005. Applicants filed a petition to withdraw the holding of abandonment on June 23, 2006, arguing that the application as filed included an authorization to charge the $370 statutory basic filing fee to a deposit account. However, the petition was dismissed in a decision mailed on July 19, 2006. At the time of the mailing of the decision, there was not sufficient funds in petitioner's deposit account to charge the $370 fee in effect on October 23, 2002.

With the instant petition, petitioner has paid the appropriate fees that should have been charged by the Office on filing.

Accordingly, the holding of abandonment is **WITHDRAWN**.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/13/08

TO SPE OF : ART UNIT 1765 Examiner Kunemund, Bob

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/284067 Patent No.: 6814802

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

Look at Drawings

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.

- [x] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments: Approved

Michael Kornakov — SPE
1714 — Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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KEVIN A. GUST
THOMPSON & KNIGHT, L.L.P.
SUITE 1200
98 SAN JACINTO BLVD.
AUSTIN TX 78701

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Windsor et al.	:	DECISION ON PETITION
Application No. 10/284,072	:	UNDER 37 CFR 1.137(f)
Filed: 30 October, 2002	:	
Atty Dkt No. 502103.000002	:	

This is a decision on the petition under 37 CFR 1.137(f),[1] filed on 23 October, 2003, to revive the above-identified application.

The petition is **dismissed** as inappropriate for the reasons stated below.

The record discloses that, on 30 October, 2002, the date of filing of the instant application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the attached **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 at eighteen months after filing."

On 23 October, 2003, petitioners filed a request under 35 U.S.C. § 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) be rescinded and the application revived because this application became abandoned for failure to notify the Office of the filing of a corresponding international or

[1] 37 CFR 1.137(f) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

foreign application. The present petition was also filed on 23 October, 2003. In this regard, petitioner states that an international or foreign application corresponding to the instant application was filed on 30 October, 2002, the same date that the instant application was filed.

The instant nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral international agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. § 122((b)(2)(B)(iii) states:

> An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional [emphasis supplied].

The facts of this case are that the subject application was filed on 30 October, 2002, and the corresponding foreign application was also filed on 30 October, 2002. The statute does not provide for the situation where a certification under 35 U.S.C. § 122(b)(2)(B)(i) was made, despite the fact that an application was filed on the same day in another country or under the multilateral international agreement. In view of petitioners' statement that the corresponding foreign application was filed on 30 October, 2002, the same date as the date of filing of the subject application, the filing of the corresponding foreign application cannot be considered to have been filed **subsequent** to the filing of the subject application in the United States. The statute at 35 U.S.C. § 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 U.S.C. § 122(b)(2)(B)(i) at the time of filing the application and an application was **subsequently** filed in a foreign country without notifying the Office within 45 days of the filing thereof.

Since the corresponding foreign or international application was either filed on the same date or filed prior to the filing date (this would be true if the corresponding foreign or international application has a filing date of 30 October, 2002) as the subject application, this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii). Therefore, a petition to revive pursuant to the provisions of 37 CFR 1.137(f) is inappropriate and, consequently, must be dismissed.

As requested, the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing, setting forth a projected publication date of 6 May, 2004, is enclosed herewith.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition.[2] Accordingly, the required $665.00 petition fee has been charged to counsel's deposit account, No. 20-0821.

The application is being forwarded to Technology Center 1600 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: A Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

[2] *See* 35 U.S.C. § 41(c)(7).

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THOMPSON & KNIGHT, L.L.P.
SUITE 1200
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AUSTIN TX 78701

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APR 30 2004

OFFICE OF PETITIONS

In re Application of	:
Windsor et al.	: DECISION ON PETITION
Application No. 10/284,072	: UNDER 37 CFR 1.78(a)(6)
Filed: 30 October, 2002	:
Atty Docket No. 502103.000002	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on 23 October, 2003, 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 **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number).

> Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending nonprovisional application was filed on 30 October, 2002, within twelve months of the filing date of the prior provisional application No. 60/340,105, and for which benefit is claimed. A reference to the prior provisional application has been included in an amendment to the first sentence of the specification following the title.

The present nonprovisional application was filed after 29 November, 2000, and the claim for benefit herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought.[2] Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for benefit under 35 U.S.C. § 119(e), the petition to accept an unintentionally delayed claim to benefit to prior-filed provisional Application No. 60/340,105 is granted.

A corrected filing receipt which includes the claim to benefit of provisional Application No. 60/340,105, filed on 30 October, 2001, accompanies this decision on petition.

The $1,330.00 fee required by 37 CFR 1.78(a)(6) has been received.

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 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)(5) and (a)(6) 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 to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this

---

[2] See 35 U.S.C. § 119(e).

benefit claim and determine whether the instant application is entitled to the benefit of the earlier-filed provisional application.

The application is being forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Charles A. Pearson
Director, Office of Petitions

Encl: Corrected Filing Receipt

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OLIFF & BERRIDGE PLC
P O BOX 19928
ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of
Toshiyuki Kogayashi
Application No. 10/284,172
Filed: October 31, 2002
Attorney Docket No. 113659

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed December 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 1, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P O BOX 19928
ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of	:
Toshiyuki Kobayashi	:
Application No. 10/284,172	: DECISION GRANTING PETITION
Filed: October 31, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 113659	:

This is a decision on the petition, filed November 20, 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 2, 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 3616 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

C:\Documents and Settings\FHicks\My Documents\470\NOV10\284172.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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DAVID TOREN, ESQ.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NY 10017-5621

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DEC 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,917,415 :
Issue Date: July 12, 2005 :
Application No. 10/284,223 : ON PETITION
Filed: October 30, 2002 :
Attorney Docket No. DT-6116 :

This is a decision on the petition under 37 CFR1.183, filed September 8, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

[1] *See* Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREGORY M. FRIEDLANDER & ASSOCIATES, P.C.
ATTN: GREGORY M. FRIEDLANDER
11 SOUTH FLORIDA STREET
MOBILE, AL 36606-1934

COPY MAILED

NOV 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Foster, Lebaron A.	:	
Application No. 10/284,233	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. UNDERARM SUPPORT	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 1, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a formal drawing; (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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

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MAR 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Canagasaby et al.	:	
Application No. 10/284,245	:	DECISION ON
Filed: October 31, 2002	:	PETITION
Attorney Docket No. 219.41236X00	:	

This is a decision on the petition filed January 29, 2003, requesting, in effect, that Figures 5A-5B, 16, and 17 filed on January 29, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed on October 31, 2002.

On November 29, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of October 31, 2002, and advising applicants that Figures 5A-5B, 16, and 17 appeared to have been omitted.

The file contains 13 pages of drawings.
Page 1 contains Figures 1A and 1B.
Page 2 contains Figures 2 and 3.
Page 3 contains Figures 4, 5, and 6.
Page 4 contains Figures 7A, 7B, 8A, and 8B.
Page 5 contains Figure 9.
Page 6 contains Figure 10.
Page 7 contains Figures 11, 12A, 12B, 12C, 12D, 12E, and 12F.
Page 8 contains Figures 13A, 13B, 13C, 13D, and 13E.
Page 9 contains Figure 15.
Page 10 contains Figures 18A, 18B, 18C, 18D, and 19.
Page 11 contains Figures 20 and 21.
Page 12 contains Figures 22 and 23.
Page 13 contains Figures 24, and 25.

Petitioner contends that 13 sheets of drawings were filed on January 29, 2002, and the file supports such a contention. However, the file contents fail to support petitioner's contention that Figures 5A, 5B, 16, and 17 were filed with the original application.

As to Figures 5A and 5B, the copy of the drawing sheet supplied on January 29, 2002, differs from the copy filed with the original application. A copy of page 3 of the drawings filed October 31, 2002, is attached.

As to Figures 16 and 17, the postcard receipt and petitioner's allegation that 13 sheets of drawings were filed fail to support petitioner's allegation that Figures 16 and 17 were filed.

All the evidence present in the file has been carefully considered, but is not persuasive that Figures 16 and 17 were submitted with the original application.

Clearly petitioner intended to file Figures 16 and 17, and petitioner believed the Figures were filed. However, petitioner has failed to establish that Figures 16 and 17 were received by the Office.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

An intent to file a complete application, and the belief that the application was complete, does not constitute sufficient evidence to establish that the actual application, as filed with the PTO, was complete. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, papers sticking together while using the copying machine, or another reason. The best evidence of what was filed on October 31, 2002, is the application file itself. Accordingly, an applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations, as in this case, are usually made weeks or months after the actual events recited. In this case, the declaration signed on January 29, 2003, was made more than several weeks after the application was received. Thus, the declaration does not have more probative value than the official government record of what was actual received in the USPTO on October 31, 2002.

An amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application. In the alternative, if petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

A portion of the petition contends that the missing Figures are unnecessary for a filing date. Petitioner should note that the Notice mailed Notice 29, 2002, states, "An application number and filing date have been accorded to this application." The application has been accorded a filing date without the omitted drawings.

The file will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 31, 2002, using only the drawings filed on that date.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Page 3 of the originally filed drawings

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OFFICE OF PETITIONS

MORGAN & FINNEGAN, LLP
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

In re Application of :
Marko Perttila et al :
Application No. 10/284,253 :
Filed: October 31, 2002 :
Attorney Docket No. 4208-4113(NOKIA 28759) :

ON PETITION

This is a decision on the petition, filed June 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 5, 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 2618 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : July 3, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Marko Perttila et al
Application No. :10/284,253
Filed :October 31, 2002

The above-identified application has been assigned Patent No. 7,076,208 and an issue date of July 11, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 11, 2006:

"All reference to Patent No. 7,076,208 to Marko Perttila et al of Finland for METHOD AND SYSTEM FOR SELECTING DATA ITEMS FOR SERVICE REQUESTS appearing in the Official Gazette of July 11, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

MAILED

JAN 29 2007

Technology Center 2100

In re Application of: Keisuke Okada
Application No. 10/284,257
Filed: October 31, 2002
For: DATA STORAGE DEVICE AND DATA ERASING METHOD

DECISION ON PETITION

This is a decision on the petition filed on August 30, 2006, under 37 CFR 1.181(a) to invoke Supervisory Authority with respect to the Office action mailed on May 30, 2006, and require the Examiner to issue a new office action.

The Petition is **DISMISSED.**

RECENT PROSECUTION HISTORY

July 28, 2005	Final Rejection mailed.
October 21, 2005	Petition to withdraw Final Rejection as premature; forwarded to examiner as a request for reconsideration.
January 1, 2006	Examiner initiated interview.
January 30, 2006	New Final Rejection mailed, in response to the petition.
February 28, 2006	Applicant Initiated Interview Request
March 30, 2006	Request for reconsideration
April 18, 2006	Advisory action mailed, documenting the content of interview held on April 13, 2006.
May 1, 2006	Applicant filed RCE

May 30, 2006	Non-Final Rejection mailed.
August 30, 2006	Instant petition requesting new office action
September 22, 2006	Restriction Requirement
October 23, 2006	Election without traverse
January 10, 2007	Final Rejection mailed, addressing each of applicants' traversal positions for the elected claims, rejecting claims 1 and 13-15, and allowing the rest of the claims.

Petitioner filed the instant petition on August 30, 2006, requesting that a new office action be issued, contending that the office action mailed May 30, 2006 did not include a "Response to Arguments" section, and did not respond to any of applicants' traversal positions set forth in the Request for Reconsideration filed on March 30, 2006, between pages 25 and 37.

The new office action mailed on January 10, 2007, responds fully to applicant's substantial traversals of all the rejection for the claims that have not been withdrawn from consideration, and is consistent with Office policy and procedure.

Accordingly, the Petition is **DISMISSED**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

A delay to render a decision on this petition is hereby regretted.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

Mano Padmanabhan
Quality Assurance Specialist,
Technology Center 2100, Workgroup 2180

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Paper No. 9

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Volman et al.	:	
Application No. 10/284,267	:	DECISION GRANTING PETITION
Filed: October 31, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 040092-015710US	:	

This is a decision on the petition, filed June 5, 2003, 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 Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **dismissed** as inappropriate for the reasons stated below.

The record discloses that, on October 31, 2002, the date of filing of the present application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the attached **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 at eighteen months after filing."

Petitioner now requests under 35 U.S.C. 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) be rescinded and the application be revived because this application became abandoned for failure to notify the USPTO within 45 days of the filing of a corresponding international or foreign application. In this regard, petitioner states that an

international or foreign application corresponding to the present application was filed on October 31, 2002, which date is prior to the date of filing the instant application.

The present nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral international agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. 122((b)(2)(B)(iii) states:

> An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional [emphasis supplied].

The facts of this case are that the subject application was filed on October 31, 2002, and the corresponding foreign application was filed on October 31, 2002. The statute does not provide for the situation where a certification under 35 U.S.C. 122(b)(2)(B)(i) was made, despite the fact that an application was filed in another country or under the multilateral international agreement on the same day. The provisions of 35 U.S.C. 122(b)(2)(B)(iii) only provide for revival in the situation where a certification was made under 35 U.S.C. 122(b)(2)(B)(i) at the time of filing the application and an application was **subsequently** filed in a foreign country without notifying the Office within 45 days of the filing thereof.

In view of the above, and because this application did not become abandoned pursuant to the provisions of 35 U.S.C. 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(b) is inappropriate, and therefore, must be dismissed.

The rules and statutory provisions governing the operations of the USPTO require payment of a fee on filing each petition. *See* 35 U.S.C. 41(c)(7). Accordingly, the petition fee of $1,300.00 assessed to petitioner's deposit account on June 6, 2003, will not be refunded.

This application is being forwarded to the Office of Initial Patent Examination for further processing and issuing of a corrected filing receipt, indicating a projected publication date.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-22-05

TO SPE OF : ART UNIT 2821

10/284267

SUBJECT : Request for Certificate of Correction on Patent No.: 6,828,948

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance,

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SPE 02/10/2006

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GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Bullen et al.	:	
Application No. 10/284,268	:	LETTER REGARDING
Filed: 10/31/2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 08812.0005	:	

This is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR CLARIFICATION OF CALCULATION" filed July 3, 2008. Pursuant to applicants' duty of candor and good faith to the Office, applicants disclose an error in the initial determination of patent term adjustment under 35 U.S.C. 154(b).

On June 24, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 207 days. On July 3, 2008, applicants submitted this instant comment. On July 8, 2008, applicants paid the issue and publication fees. However, prior to the Office rendering a decision on the instant letter regarding patent term adjustment, the Office mailed a "PATENT WITHDRAWAL NOTCE" on July 30, 2008, which stated that the present application had been withdrawn from the Tuesday, August 19, 2008 issue.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date.

Applicants must submit a timely application for patent term adjustment in response to any new Notice of Allowance (or may submit another candor letter). An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice.

This matter is being referred to the Office of Data Management.

Telephone inquiries specific to this decision should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

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OFFICE OF PETITIONS

In re Application of	:	
Melvin James Bullen, et al.	:	
Application No. 10/284,268	:	DECISION GRANTING PETITION
Filed: October 31, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 08812.0005	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2189 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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HILLEL T COHN ESQ
MORRISON & FOERSTER LLP
555 WEST FIFTH STREET
STE 3500
LOS ANGELES CA 90013

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of WILLIAM C. TERRELL Application No. 10/284,273 Filed: October 29, 2002 For: ROUTER WITH ROUTING PROCESSORS AND VIRTUALIZATION	: : : : : :	DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on March 03, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, ***the request is granted.*** Future correspondence will be sent to the below address which has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

cc: HILLEL T. COHN ESQ
MORRISON & FOERSTER LLP
555 WEST FIFTH STREET STE 3500
LOS ANGELES CA 90013

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RICHARD KIM
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
William C. Terrell, et. al.	:	
Application No. 10/284,273	:	DECISION ON PETITION
Filed: October 29, 2002	:	TO WITHDRAW
Attorney Docket No. 39658.00016 (QT1192-DIV1.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2005.

The request is **NOT APPROVED** because it is 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 February 7, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: KLEIN, O'NEILL & SINGH, LLP
43 CORPORATE PARK
SUITE 204
IRVINE CA 92606

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Krishna, et al.	:	
Application No. 10/284,288	:	DECISION ON PETITION
Filed: October 31, 2002	:	TO WITHDRAW
Attorney Docket No. 1875.2470001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Linda E. Horner on behalf of herself.

All attorneys/agents associated with this application remain of record.

There is an outstanding Office action mailed June 23, 2006 that requires a reply from the applicant.

The correspondence address of record remains unchanged

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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Paper No. 5

RADER, FISHMAN & GRAUER, PLLC
Suite 501
1233 20th Street, N.W.
Washington, DC 20036

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MAR 1 7 2003

OFFICE OF PETITIONS

In re Application of
Yamamoto et al.
Application No. 10/284,304
Filed: October 31, 2002
Attorney Docket No. YOS-044

: DECISION GRANTING PETITION

This is a decision on the petition filed February 3, 2003, requesting, in effect, that Figure 2 of the priority document be considered part of the original disclosure.

The petition is **granted**.

On October 31, 2002, the application was filed. A Notice of Omitted Items was mailed on December 3, 2002, stating that Figure 2 appeared to be missing.

A review of the priority documents submitted October 31, 2002, reveals that it does include a drawing sheet containing drawings almost identical to Figure 2 intended to be filed on October 31, 2002, and which appear to correspond to Figure 2 described in the specification. Accordingly, on petition, the Figure 2 *from the priority document* will be construed as part of the application for filing date purposes.

The petition fee will not be refunded, since the petition was necessary to correct applicant's filing error.

If petitioner desires for Figure 2 from the priority document to be altered (such as relabeling the drawing, translating text, etc.), then petitioner may submit an amendment to the drawings. Any such amendment will, of course, be reviewed by the examiner for new matter. Petitioner should note that the Office is unable to make a full and legible copy of Figure 2 from the priority document due to the ribbon binding on the sheets. The Office will use the copy provided by petitioner on February 3, 2003, which may or may not comply with the requirements of 37 CFR 1.84.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 31, 2002, using the application papers filed on October 31, 2002, and a copy of Figure 2 filed on February 3, 2002, as part of a priority document.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/284340

Paper No.: —

DATE : 1/26/06

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction on Patent No.: 6906414 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

EDDIE LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

Nilesh Parekh
Primary Examiner
02-23-06
2811

Art Unit

PTO/SB/44 (07-03)
Approved for use through 01/31/2007. 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: 6,906,414 B2

DATED: June 14, 2005

INVENTORS: ZHAO *et al.*

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below.

Column 48

After claim 37, add the following claim: **--38. The package of claim 21, further comprising a sealant material that substantially fills a gap around said protruding portion between said protruding portion and said substrate in said window opening.--**

MAILING ADDRESS OF SENDER:
Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue, N.W.
Washington, DC 20005-3934

PATENT NO. 6,906,414 B2

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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 are required 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 (1-800-786-9199) and select option 2.

JAN 18 2006

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6963620	2005-11-08	10284342	2002-10-31	GCTS-028

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	/Patrick D. Muir/	Date (YYYY-MM-DD)	2010-04-29
Name	Patrick D. Muir, Reg. #37403	Registration Number	37403

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6963620
Issue Date: November 8,2005
Application No. 10284342
Filed: October 31,2002
Attorney Docket No. GCTS-0028

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed April 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 29,2010 . 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
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ALEXANDRIA, VA 22313-1450
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MAIL

MAY 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON DC 20036

In re Application of
Robert A. Sartini
Application No. 10/284,398
Filed: October 31, 2002
For: **INTERACTIVE VOICE RESPONSE SYSTEM UTILITY**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment, pursuant to 37 C.F.R. § 1.181(a), filed October 6, 2004 as supplemented on April 26, 2005. No fee is required.

This application became abandoned for failure to timely respond to the Non-Final Office Action mailed January 30, 2004. A Notice of Abandonment was mailed September 30, 2004.

Petitioner alleges that the non-final Office Action mailed August 12, 2004was not received. In support thereof, Petitioner provides a statement regarding search of the file and docket records as well as provides a copy of said docket records where the non-final Office action would have been logged had it been received.

Based on M.P.E.P. § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at 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 communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;
(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and,
(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.
The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has complied with the requirements set forth above.

Accordingly, the petition is **GRANTED.** The holding of abandonment is withdrawn.

The application file will be forwarded to the examiner for review and update as appropriate. From there, the file will be forwarded to the Technology Center's technical support staff for mailing of the new non-final Office action and restarting the time period for response.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 07 2008

DATE : 07-10-08

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/284400** Patent No.: **7270827**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE 1645 — **SPE**

1645 — **Art Unit**

10/284400

C of C

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PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. : 7,270,827 B2

Issue Date : September 18, 2007

Inventors : Mark A. Reddish et al.

Docket No. : 920098.413

Date : June 3, 2008

Certificate
JUN 1 0 2008
of Correction

Mail Stop Certificate of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please enter.
/SD/
07/14/08

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents:

A Certificate of Correction is respectfully requested in the above-identified patent. The following errors have been made.

Column 76, claim 2, line 5, the section "and M1.0-M12Spa-MM28-M3-M1.2-M18-M1.0" is incorrect. As set forth in the Amendment dated May 23, 2007, the section should read as -- and M1.0-M12-Spa-M28-M3-M1.2-M18-M1.0. --.

Please note that due to claim cancelling and renumbering, Claim 79 of the May 23, 2007 Amendment became Claim 2 in the issued patent.

Column 76, claim 6, lines 4 and 5, the section "M2-M43-M94-M22-M 11-M59-M33-M2, M89-M-101-M77-M 114-M75-M76-M92-M89," is incorrect. As set forth in the Amendment dated May 23, 2007, the section should read as -- M2-M43-M94-M22-M11-M59-M33-M2, M89-M101-M77-M114-M75-M76-M92-M89 --.

Please note that due to claim cancelling and renumbering, Claim 83 of the May 23, 2007 Amendment became Claim 6 in the issued patent.

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Steven C. Petersen
Hogan & Hartson, LLP
Suite 1500
1200 17th Street
Denver, CO 80202

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OFFICE OF PETITIONS

In re Application of	:	
Tadaharu Watanabe, et al.	:	
Application No. 10/284,423	:	ON PETITION
Filed: October 29, 2002	:	
Attorney Docket No. MTG011	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed November 4, 2003. The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-9220.

The application file is being forwarded to Technology Center AU 1724, for further processing of the request for continued examination under 37 CFR 1.114 filed June 9, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Gary G. Liu	: DECISION ON REQUEST FOR
Patent Number	: 7574607	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/284,427	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2015** 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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A PROFESSIONAL ASSOCIATION
INTERNATIONAL CENTRE – SUITE 1600
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

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OFFICE OF PETITIONS

In re Application of	:	
Bares et al.	:	
Application No. 10/284,432	:	ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No. M297.12-0255	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center 3600 for consideration of the Amendment under 37 CFR 1.312(a) concurrently filed.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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SEP 1 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Randal A. McCoy et al	:	
Application No. 10/284,443	:	DECISION ON PETITION
Filed: October 31, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0136	:	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, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki, along with all of the other attorneys associated with the law firm of Antonelli, Terry, Stout & Kraus, LLP has been revoked by the assignee of the patent application on August 8, 2005 and supplemented on November 23, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, NE
ATLANTA, GA 30309-3996

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ANTONELLI TERRY STOUT & KRAUS
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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OFFICE OF PETITIONS

In re Application of	:	
Randal A. McCoy et al	:	
Application No. 10/284,449	:	DECISION ON PETITION
Filed: October 31, 2002	:	TO WITHDRAW
Attorney Docket No. 3350-100A	:	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, 2005.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Alfred A. Stadnicki on behalf of all attorneys/agents of record who are associated with customer No. 020457 and all other attorneys/agents of record. However, a review of the file record indicates that not all attorneys/agents associated with customer No. 020457 have power of attorney in this application or has been employed or otherwise engaged in the proceedings in this application. In view of the present decision, all attorneys/agents associated with customer No. 020457 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) 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 inventor at the first copies address below until otherwise properly notified by the applicants.

A power of attorney submitted on August 8, 2005 was improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3628.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: RANDAL A. MCCOY
1032 MOORES WALK LANE
SUWANEE, GA 30024

MR. HANS DREYER
DIRECTOR, INTELLECTUAL PROPERTY (LEGAL DEPARTMENT)
CHECKFREE CORPORATION
6000 PERIMETER DRIVE
DUBLIN, OH 43017-3233

WILLIAM R. SILVERIO
SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3996

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8/25/08

Patent No. :7376183
Ser. No. :10/284461
Inventor(s) :GILBERT G. WEIGAND
Issued : 5/20/08
Title : POST-PRODUCTION PROCESSING
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Lori L. Stewart
Fish & Richardson P.C.
P.O. BOX 1022
MINNEAPOLIS, MINNESOTA 55440-1022

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Fish & Richardson, P.C.
P.O. BOX 1022
Minneapolis, MN 55440-1022

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,376,183 :
Issue Date: May 20, 2008 :
Application No. 10/284,461 :
Filed: October 31, 2002 :
Patentee(s): Gilbert G. Weigand, et. al. :

This is a decision on the request under 37 CFR 3.81[1], filed December 8, 2008, to add the names of two assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Dmitry Brant 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 on whose behalf he/she acts. If petitioner desires to receive future correspondence regarding this patent, 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 patent file will be directed solely to the address of record until otherwise instructed.

Since the present request complies with the requirements of 37 CFR 3.81, the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Dmitry Brant
1425 K Street, NW
11th Floor
Washington, DC 20005-3500

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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AUG 24 2004

BANNER & WITCOFF LTD.,
ATTORNEYS FOR MICROSOFT
1001 G STREET , N.W.
ELEVENTH STREET
WASHINGTON DC 20001-4597

In re Application of:	:	
	:	NOTICE OF WITHDRAWAL
Application No. 10/284470	:	FROM ISSUE
Filed: 10/31/2002	:	UNDER 37 CFR ∋ 1.313
Attorney Docket No. **003797.00406**	:	

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 April 27, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Judy Nguyen at (571) 272-2258.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Howard Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ALEXANDRIA, VA 22313-1404

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Toru Kagata et al :
Application No. 10/284,507 :
Filed: October 31, 2002 :
Attorney Docket No. 000400-969 :

This is a decision on the petition under 37 CFR 1.313(c), filed March 11, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3681 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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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NEW HAVEN CT 06510

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OFFICE OF PETITIONS

In re Application of :
Gannon :
Application No. 10/284,516 :
Filed: October 30, 2002 :
Attorney Docket No. SOLI11000200 :
For: FILTRATION OF HYDROCARBON CONTAINING LIQUID

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 1, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Reconstruction Notice, mailed December 13, 2004, which set forth a three (3) month period for reply. The Office contended that this application became abandoned on March 14, 2005 for failure to reply. A Notice of Abandonment was mailed on July 25, 2006.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that an accurate copy of applicant's records with respect to this invention was timely mailed on certificate of mailing date January 11, 2005 and received in the Office on January 14, 2005. The undersigned finds this argument completely convincing, as applicant's reply is present in the application file. Petitioner timely responded to the December 13, 2004 Reconstruction Notice.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the July 25, 2006 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 1724 for examination in due course.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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dss

Mailed: 11-27-06

In re application of :
William J. Gannon : DECISION ON
Serial No.10/284,516 : PETITION
Filed: October 30, 2002 :
For: FILTRATION OF HYDROCARBON CONTAINING LIQUID
:

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181(a) filed July 27, 2006. The response asks that the abandonment, as set forth in the Notice of Abandonment of July 25, 2006, be withdrawn since the applicant did timely file a response on January 11, 2005.

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 USPTO application file reveals that applicant's response was properly filed on January 11, 2005 in view of the fact that the originally filed papers having a Patent and Trademark Office date stamp of January 14, 2005 thereon and a properly completed Certificate of Mailing dated January 11, 2005 thereon have been located in the USPTO application file. Accordingly, any holding of abandonment is hereby vacated, and the application has been returned to pending status.

The application shall be forwarded for processing and consideration of the papers filed January 14, 2005..

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Attention: Kelly M. Nowak
DeLio & Peterson, LLC
121 Whitney Avenue
New Haven, CT 06510

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Paper No.

THE MILLER LAW OFFICES, PLC
801 BRICKELL AVE
SUITE 900
MIAMI FL 33131

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OFFICE OF PETITIONS

In re Application of :
William Gannon : DECISION ON PETITION
Application No. 10/284,516 :
Filed: October 30, 2002 :
Atty Docket No. SOLI11000200 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed August 19, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice of Non-compliant Amendment (37 CFR 1.121) mailed October 12, 2007. The relevant amendment was filed on October 3, 2007 in response to the restriction requirement mailed April 4, 2007. A first Notice of Non-compliant Amendment (37 CFR 1.121) was mailed on October 12, 2007. This Notice set a period for reply of one month from the mail date of the Notice. An amendment was filed in reply on November 13, 2007. In response, a second Notice of Non-compliant Amendment (37 CFR 1.121) was mailed on May 5, 2008. This Notice did not set a new period for reply. The period continued to run from the first Notice mailed October 12, 2007. A reply was filed on May 13, 2008; however, this was outside of the period for reply. No proper reply timely filed, the above-identified application became abandoned on November 13, 2007. A courtesy Notice of Abandonment was mailed on June 20, 2008.

In response, applicants filed the instant petition under 37 CFR 1.137(b). The petition includes the required reply in the form of an amendment, the petition fee, and the required statement of

unintentional delay. The statement of unintentional delay is further supported by a statement of the circumstances of the abandonment of the application. It is concluded that petitioner has satisfied the requirements of 37 CFR 1.137(b).

The application file is being forwarded to Technology Center AU 1797 for consideration of the response submitted on petition filed August 19, 2008.

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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HOVEY WILLIAMS LLP
10801 MASTIN BLVD., SUITE 1000
OVERLAND PARK, KS 66210

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OFFICE OF PETITIONS

In re Application of	:	
Rangaswamy Chinnaswamy et al	:	
Application No. 10/284,552	:	ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No. 33879	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 9, 2007, which set a shortened statutory period for reply of three (3) months. One-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 10, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1656 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HOVEY WILLIAMS LLP
10801 MASTIN BLVD., SUITE 1000
OVERLAND PARK, KS 66210

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MAY 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Li Nie et al	:	
Application No. 10/284,553	:	ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No. 32336	:	

This is a decision on the petition filed November 30, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The 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 Technology Center AU 1794 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John M. Collins
Hovey Williams LLP
2405 Grand Boulevard, Suite 400
Kansas City, Missouri 64108

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OFFICE OF PETITIONS

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

In re Application of
Groves, Price, and Sneddon
Application No.: 12/484,559
Filed: June 15, 2009
Attorney Docket No: 42527-109864
For: ULTRA-SONIC DEVICE

: DECISION REFUSING
: RULE 47(b) STATUS

This is a decision on the petition under 37 CFR 1.47(b) filed August 31, 2009.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on June 15, 2009, without a properly executed declaration. On June 30, 2009, the Office mailed a Notice to File Missing Parts of Non-Provisional Application (the "Notice"), which set a shortened period for reply of two months from its mailing date. The Notice required an executed oath or declaration to be filed along with payment of a surcharge. The instant petition accompanied the application papers.

A grantable petition under 37 CFR 1.47(b) 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 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks items (1), (2), (5), and (6) as set forth above.

As to item (1), the instant petition does not detail the circumstances of the refusal of inventor Groves and Price to join the prosecution of the application and does not indicate that they were presented with a complete copy of the application papers. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> 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.

The renewed petition must be accompanied by a statement that details the circumstances of inventors Groves and Price alleged refusal and be accompanied by any documentary evidence that supports petitioner's contention.

It is further noted that petitioner states that inventor Sneddon is hospitalized with a serious illness and presumably cannot execute the declaration. The provisions of 37 CFR 1.47 address situations where the inventor is refusing or cannot be located to sign the declaration. The provisions of 37 CFR 1.47are not intended to address situations where an inventor is ill or deceased and cannot execute the declaration. Where, as in this case, the inventor is ill and cannot execute the decalartion, the legal representative of the inventor may execute the declaration for the inventor pursuant to 37 CFR 1.43. The renewed petition must address this matter. If petitioner is not able to obtain the signature of inventor Sneddon's legal representative, petitioner may request status under 37 CFR 1.47(b) as it applies to the legal representative.

As to item (2), petitioner failed to file a proper oath or declaration with the instant petition as required by 37 CFR 1.47. Section 409.03 (b) of the MPEP states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63

> and 1.54 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent authorized to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent my simply state that he or she is authorized to sign on behalf of the corporation.

A review of the application file did not reveal an executed oath or declaration for the subject application. With any renewed petition filed, petitioner must file a declaration that conforms to the MPEP section cited above.

Further as to item (2), a declaration signed by the assignee cannot be accepted until the assignee demonstrates that it has the power to prosecute the application. Section 409.03(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that, "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP 324." Section 324 of the *Manual of Patent Examining Procedure* cites 37 CFR 3.71(c) which states that, "[a]n assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee." Petitioner should note that 37 CFR 3.73 requires that before an assignee can take action in a patent matter, the assignee must establish ownership of the patent property in accordance with 37 CFR 3.73(b)(1)(i) or (ii). No statement or certificate meeting the requirements of 37 CFR 3.73 was found with the petition. Petitioner must properly establish ownership of the patent property before the assignee will be granted authority under 37 CFR 1.47(b) to prosecute the application. Enclosed is a "Statement Under 37 CFR 3.73(b)" that petitioner may use to satisfy this requirement.

As to item (5), Section 409.03(f) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
>
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
>
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date

for a 37 CFR 1.47(b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner has not established that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to prosecute the application. Being careful to adhere to the guidance provided above, the renewed petition must establish that the non-signing inventors assigned, or agreed to assign, their rights to the invention to the 37 CFR 1.47(b) applicant, or that a court of competent jurisdiction would award title of the invention to the 37 CFR 1.47(b) applicant.

As to item (6), petitioner did not include a statement that status for this application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties or to prevent irreparable damage. The renewed petition must include such a statement.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FALLS CHURCH VA 22042-2924

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OFFICE OF PETITIONS

In re Application of	:	
Xianhai Chen, et al.	:	
Application No. 10/284,586	:	NOTICE
Patent No. 6,972,893	:	
Filed: October 30, 2002	:	
Attorney Docket No. 26822-0011 C1		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/04

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction on Patent No.: 10/284,592 6,787,589

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.

See Amendments - Enter?

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The changes in the Request for Certificate of Correction filed 10/18/04 are approved. (The errors are printing mistakes.)

Vasu Jagannathan — **SPE**

1714 — **Art Unit**

21 SEP 2005

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ALEXANDRIA, VA 22313-1450
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Patrick D. Kelly
11939 Manchester Rd. #403
St. Louis, MO 63131

In re Application of BACON et al	:	
U.S. Application No.: 10/284,598	:	
PCT Application No.: PCT/US01/11895	:	
Int. Filing Date: 11 April 2001	:	DECISION
Priority Date Claimed: 11 April 2000	:	
Attorney Docket No.: FB-NB-PCT	:	
For: WATER-RESISTANT PLYWOOD	:	
SUBSTITUTES MADE FROM RECYCLED	:	
CARPETS OR TEXTILES	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 06 January 2003.

BACKGROUND

On 11 April 2001, applicant filed international application PCT/US01/11895, which claimed priority of an earlier United States application filed 11 April 2000.

International application PCT/US01/11895 became abandoned as to the United States for failure to timely pay the basic national fee.

On 06 January 2003, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply.

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.

International application PCT/US01/11895 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 U.S. continuation application number 10/284,598.

This application is being returned to Technology Center 1700 for continued examination.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459

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PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS, MO 63131

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of :
Bacon et al. :
Application No. 10/284,598 :
Filed: October 31, 2002 :
Attorney Docket Number: FB-NB-1 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 25, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 26, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 27, 2005. A Notice of Abandonment was mailed on March 22, 2006.

Petitioner has filed an Amendment with the petition in response to the Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 1733 for processing of the Amendment in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

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NOV 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Gaboury et al.	:	
Application No. 10/284,634	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 8929-3039	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 5, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed April 20, 2004, which set a non-extendable period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 21, 2004. A Notice of Abandonment was mailed on September 14, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is now being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE H. Shackelford

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/284,634

Paper No.: _____

DATE : 6/14/05

TO SPE OF : ART UNIT 3673

SUBJECT : Request for Certificate of Correction on Patent No.: 6883191

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☑ **Denied** — State the reasons for denial below.

Comments:

The proposed amendment introduces errors into the claims and can not be entered as written. It would introduce redundant phrases into the claims and render them indefinite under 35 USC 112.

HEATHER SHACKELFORD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
SPE

3673
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

MORRISON & FOERSTER, LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130

COPY MAILED

JUN 14 2006

OFFICE OF PETITIONS

In re Application of Terrell et al. Application No. 10/284,655 Filed: October 30, 2002 Attorney Docket No. 39658.00017 (QT1192-DIV2.US)	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 12, 2005, 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 **APPROVED**.

A review of the file record indicates that Richard C. Kim and the attorneys of Morrison & Foester, LLP: (1) do not have power of attorney in this patent application; but (2) has been employed or otherwise engaged in the proceedings in this patent application. The attorneys of Morrison & Foester, LLP, may not act in a representative capacity under 37 C.F.R. § 1.34 unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b). The Request for Withdrawal submitted on March 3, 2005, merely assigned the correspondence address to the firm of Morrison & Foester, LLP, not power of attorney.

A Revocation and Substitution of Power of Attorney was filed on January 24, 2006 by the assignee of the entire interest. Accordingly, the correspondence address of record will continue to be the first below-listed address until otherwise notified by applicant

There is an outstanding Office action mailed February 13, 2006 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

KLEIN, O'NEILL & SINGH
2 PARK PLAZA
SUITE 510
IRVINE CA 92614

T.J. SINGH, ESQ.
QLOGIC CORP.
26650 ALISO VIEJO PARKWAY
ALISO VIEJO, CA 92656

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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WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

OCT 04 2005

In re Application of: Weimin Li et al
Application No. 10/284,681
Filed: October 31, 2002
Attorney Docket No. 2008.005800

Decision on Petition

This is a decision on the petition filed under 37 C.F.R. § 1.48 (a)(2) on February 3, 2005 to correct inventorship.

The petition is GRANTED.

37 C.F.R. § 1.48 Correction of inventorship in a patent application, other than a reissue application, pursuant to 35 U.S.C. 116.

§ 1.48 Correction of inventorship in a patent application, other than a reissue application, pursuant to 35 U.S.C. 116.
(a) Nonprovisional application after oath /declaration filed . If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. If the nonprovisional application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has complied with all the above requirements by submitting the required documents in conjunction with the processing fee to correct inventorship.

The inventorship will be corrected to be: LI, WEIMIN; RUEGER, NEAL R.; LI, LI; DANDO, ROSS S.; HAMER, KEVIN T and MARDIAN, ALLEN P.

The application file will be forwarded to the Technical Support staff for Technology Center 2800 for entry of the correction of inventorship.

Inquiries regarding this decision should be directed to Michael Lebentritt at (571) 272-1873.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6936547
Issue Date: August 30,2005
Application No. 10284681
Filed: October 31,2002
Attorney Docket No. MI22-3690

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 27,2009 ,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 27,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6936547	2005-08-30	10284681	2002-10-31	MI22-3690

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	/Mark S. Matkin/	Date (YYYY-MM-DD)	2009-10-27
Name	Mark S. Matkin	Registration Number	32268

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080303

DATE : August 29, 2006

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction on Patent No.: 10284686

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Duane Smith/ Art Unit 1797

27 FEB 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

Caroline Nash
Nash & Titus, LLC
3415 Brookeville Road
Brookeville MD 20833

In re Application of	:	
MANN	:	
Application No.: 10/284,689	:	DECISION
Attorney Docket No.: Hubsch 109	:	
For: CONTROL SYSTEM OR PROCESS FOR THE	:	
AUTOMATIC CONTROL OF A MOVEABLE BUCKET	:	
WHEEL DEVICE	:	

This decision is in response to applicant's submission via facsimile transmission filed 23 October 2003.

BACKGROUND

On 02 May 2001, applicants filed international application PCT/DE01/01637 which claimed a priority date of 05 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 24 September 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 05 November 2002.

On 31 October 2002, applicant filed, *inter alia*, a UTILITY PATENT APPLICATION TRANSMITTAL (Only for new nonprovisional applications *under 37 CFR 1.53(b)*) (PTO/SB/05) (emphasis added), a specification, claims, drawings, a declaration of the inventor, an assertion of small entity status, and a small entity basic filing fee for a utility application of $370.

On 26 November 2002, applicant submitted, *inter alia*, "SUBMISSION OF AMENDED PAGES OF PCT APPLICATION."

On 17 January 2003, applicant submitted a "REQUEST FOR CORRECTED FILING RECEIPT" requesting that the following foreign priority application data for which priority was claim in the Declaration be included in the filing receipt:

German Application No. 100 21 675.7 filed May 5, 2000; and
PCT Application No. PCT/DE01/01637 filed May 2, 2001.

On 06 February 2003, a RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT was mailed indicating that the applications to which priority is claimed were filed over a year prior to the filing date of this application and that therefore, the referenced applications cannot be claimed as domestic or foreign priority.

On 23 October 2003, applicants submitted the instant facsimile transmission which was accompanied by, *inter alia*, a petition under 37 CFR 1.10(e), a copy of the Customer Copy of Express Mail Label Number EU353579426US showing a date-in of "21103", a cover letter including Express Mail Label Number EU353579426US and itemizing, *inter alia*, a Petition to Revive International Application Under 37 CFR 1.137.

DISCUSSION

Petition Under 37 CFR 1.10(e)

37 CFR 1.10(e) states:

Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicants have satisfied items (1) and (2). As to item (3), the petition is accompanied by a copy of the originally deposited Transmittal Letter showing "Express Mail" Label Number EV021612799US thereon, a copy of the originally deposited Petition to Revive, and a copy of the "Express Mail" mailing label showing the "date-in" as "21103". Thus, item (3) is satisfied. As to item (4), petitioner has provided the required statement. Accordingly, the copy of the "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT

DESIGNATING THE U.S. ABANDONED UNDER 37 CFR 1.137(a)" is considered to have been received in the USPTO on 11 February 2003.

Submission filed 31 October 2002

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The transmittal letter filed on 31 October 2002 is a "UTILITY PATENT APPLICATION TRANSMITTAL (Only for new nonprovisional applications under 37 CFR 1.53(b))." However, the declaration of inventors executes international application PCT/DE01/10637 and contradicts the request in the transmittal letter to file under 37 CFR 1.53. The transmittal letter used by applicant is to be used only with submissions under 35 U.S.C. 111(a). Since applicant gave conflicting instructions, the papers should have been considered as having been filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 31 October 2002 were properly accepted as a submission under 35 U.S.C. 111(a).

Continuation Application

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/284,689) and the international application (PCT/DE01/01637) designating the United States were copending on 31 October 2002. However, this reference must also be submitted within the later of four months from the actual filing date of this application or sixteen months from the filing date of the international application. 37 CFR 1.78(a)(2)(ii). Applicant may file a petition to accept an unintentionally delayed claim under 37 CFR 1.78(a)(3) for the benefit of the international application.

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit certified copies of the priority documents. The certified copies of priority documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

Submission filed 11 February 2003

The "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNDER 37 CFR 1.137(a)" and the "STATEMENT THAT THE ENTIRE DELAY WAS UNINTENTIONAL" are DISMISSED as MOOT. As noted above, the international application PCT/DE01/01637 and the instant application 10/284,689 were copending on 31 October 2002.

The fees of $1,100.00 submitted 11 February 2003 will be refunded.

CONCLUSION

For the reasons set forth above, the petition for revival of the international application under 37 CFR 1.137(a) is **DISMISSED** as **MOOT**.

This application is being forwarded to the Office of Initial Patent Examination for processing as a national application filed under 35 U.S.C. 111(a) with a filing date of **31 October 2002**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES RECEIVING OFFICE(RO/US) FEE CODING AND RECORDING SHEET ☐ Add'l Sheets

IDENTIFICATION OF THE INTERNATIONAL APPLICATION

International application No.	International filing date (day/month/year)

Applicant (Name)

PAYMENTS					REFUNDS	
Payment on Filing		Deposit Account	Deposit Account		To Deposit Account	To Deposit Account
Deposit Account	[redacted]	Date:	Date:		Date:	Date:
☐ CASH/CHECK		☐ CASH/CHECK	☐ CASH/CHECK		☐ BY CHECK	☐ BY CHECK
150	240.00					
151	0.00					
153	450.00					
800	282.00					
801	369.00					
802	0.00					
899	440.00					
566	30.00					
		Total Paid:	Total Paid:	Total Paid:	Total Refunded:	Total Refunded:
159		1,331.00	0.00	0.00	0.00	0.00
States Included for 892:			892:	892:		

Adjustment date: 02/02/2004 JKURTZ1
02/25/2003 JKURTZ1 00000001 PCT/DE01/01637
01 FC:2206 -1100.00 OP

Refund Ref:
02/02/2004 JKURTZ1 00000[illegible]

CHECK Refund Total: [illegible]

02/02/2004 JKURTZ1 00000013 10284689

01 FC:1206 1100.00 OP

COMPLETED
3/9/04

RO/US Authorization	RO/US Authorization	RO/US Authorization	RO/US Authorization	RO/US Authorization
Jon Kurtz 703-308-1744				

Adjustment date: 02/02/2004 JKURTZ1
02/02/2004 JKURTZ1 00000013 10284689
01 FC:1206 1100.00 OP

Form PCT/RO/102b (U.S. VERSION)
(Rev. 07-92)

U.S. DEPARTMENT OF COMMERCE - Patent and Trademark Office

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09MAR04

2 Serial/Patent # 10/284,689

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$ ~~1100~~
X	Other			$ 1100

7 TOTAL AMOUNT OF REFUND $ 1100

8 TO BE REFUNDED BY:

X Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

X Overpayment

Duplicate Payment

No Fee Due (Explanation):

As per The PCT Decision dated 27 FeB 2004 — Refund This $1100 (For DAN S)

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: _____ TITLE: _____

SIGNATURE: Jon Kurz PHONE: _____

OFFICE: PCT

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Mary Phillips DATE: 3-9-04

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Nash & Titus, LLC
21402 Unison Road
Middleburg, VA 20117

COPY MAILED

JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of	:
Bernd Mann	: DECISION ON PETITION
Application No. 10/284,689	: UNDER 37 CFR 1.78(a)(3)
Filed: October 31, 2002	: AND UNDER 37 CFR 1.55(c)
Attorney Docket No. Hubsch 109	:

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed July 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed International Application No. PCT/DE01/01637, filed May 2, 2001, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) and (3).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing

date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed July 2, 2004, fails to state the relationship of PCT Application No. PCT/DE01/01637, filed May 2, 2001, to the instant application.

As to the benefit claim under 37 CFR 1.55(c), the foreign application data should be included in the declaration or Application Data Sheet and not in an amendment to the first sentence following the title of the specification. **Note 1.63(c)(2) and 1.76**. Therefore, petitioner need **not** include the foreign application data in the supplemental amendment since the foreign priority claim, for benefit to German Application No. 10021675.7 filed May 5, 2000, was included previously in the declaration.

Accordingly, before the petition can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed PCT application to the instant application 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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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Nash & Titus, LLC
21402 Unison Road
Middleburg, VA 20117

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OFFICE OF PETITIONS

In re Application of	:
Bernd Mann	: DECISION ON PETITION
Application No. 10/284,689	: UNDER 37 CFR 1.78(a)(3)
Filed: October 31, 2002	: AND UNDER 37 CFR 1.55(c)
Attorney Docket No. Hubsch 109	:

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed July 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed International Application No. PCT/DE01/01637, filed May 2, 2001, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) and (3).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing

date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed July 2, 2004, fails to state the relationship of PCT Application No. PCT/DE01/01637, filed May 2, 2001, to the instant application.

As to the benefit claim under 37 CFR 1.55(c), the foreign application data should be included in the declaration or Application Data Sheet and not in an amendment to the first sentence following the title of the specification. **Note 1.63(c)(2) and 1.76**. Therefore, petitioner need **not** include the foreign application data in the supplemental amendment since the foreign priority claim, for benefit to German Application No. 10021675.7 filed May 5, 2000, was included previously in the declaration.

Accordingly, before the petition can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed PCT application to the instant application is required.

Further correspondence with respect to this matter should be addressed as follows:

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By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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21402 Unison Road
Middleburg, VA 20117

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OFFICE OF PETITIONS

In re Application of	:	
Bernd Mann	:	
Application No. 10/284,689	:	DECISION ON PETITION
Filed: October 31, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Hubsch 109	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 16, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed International Application No. PCT/DE01/01637, filed May 2, 2001, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on October 31, 2002, and was pending at the time of filing of the petition. A reference to the prior-filed International application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed International application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed International application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed International 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 International 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 International application. In order for the instant application to be entitled to the benefit of the prior-filed international application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed International 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 International application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2863 for appropriate action on the amendment filed June 16, 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 International application.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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DUANE MORRIS, LLP
IP DEPARTMENT
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PHILADELPHIA PA 19103-7396

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Tai-Chun Huang
Application No. 10/284,715
Filed: October 31, 2002
Attorney Docket No. N1085-00012

This is a decision on the petition filed November 12, 2004 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned November 6, 2004 for failure to timely pay the issue fee on or before November 5, 2004. The instant petition and petitions decision precede the mailing of the Notice of Abandonment.

Effective October 1, 2004, the issue fee for a large entity was set at $1370.00 not $1330.00 as was submitted with the instant petition. Therefore, per petitioner's authorization, the difference of $40.00 has been charged to deposit account no. 04-1679. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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AUSTIN TX 78767

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OFFICE OF PETITIONS

In re Application of
Yeager, et al.
Application No. 10/284,717
Filed: October 31, 2002
Attorney Docket No. 5681-18900

DECISION ON PETITION

This is a decision on the petition, filed January 30, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed June 3, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 6, 2009.

Petitioner asserts that the Office action dated June 3, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the January 30, 2009 Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2452 for re-mailing the Office action of June 3, 2008. The period for reply will run from the mailing date of the Office action.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 24, 2006

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/284755 patent No.: 7,049,822 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

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: _____

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2858

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJr: 09-03

Paper No: 3

MARTIN J. MORAN
CUTLER-HAMMER
TECHNOLOGY & QUALITY CENTER
170 INDUSTRY DRIVE, RIDC PARK WEST
PITTSBURGH PA 15275-1032

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SEP 2 6 2003
OFFICE OF PETITIONS

In re Application of	:	
Mendoza, et al.	:	
Application No. 10/284,782	:	ON PETITION
Filed: 31 October, 2002	:	
Attorney Docket No.: 02-EDP-208	:	

This is a response to the paper filed in parts on 11 July, 2003, styled as a "Petition Under 37 C.F.R. §1.10 to Correct Filing Date," seeking to obtain a 31 October, 2002, filing date, rather than the 1 November, 2002, filing date presently accorded.

The petition is **GRANTED**, and, no fee is charged.

BACKGROUND

The record indicates that:

- Petitioner Kirk Houser (Reg. No. 37,357) (Petitioner) alleges that this nonprovisional application was filed via Express Mail (US Postal Service (USPS) Express Mail label number ET507562070US;

- the Office thus far has accorded a filing date of 1 November, 2002, the date of delivery, as provided in 37 C.F.R. §1.10(a);

- the instant petition is supported by the statement of Petitioner included in the petition; and:

  --what is indicated to be a true copy of USPS Express Mail label No. ET507562070US attached, and--however, there is neither a "date in" nor a date stamp on the document; and

--what is indicated to be a copy of the one- (1-) page USPS Track & Confirm document evidencing the Express Mail label number ET507562070US and the indication that it was 'ENROUTE, October 31, 2002, 7:48 p.m., PITTSBURGH, PA 152331"; and

--what is indicated to be a copy of a one- (1-) page application transmittal for the instant application evidencing the USPS Express Mail label number ET507562070US, the title of the claimed invention and Petitioner's docket number.

Petitioner indicates that "[t]wo previous 'Requests for Corrected Filing Receipt' were filed for this Application con December 19, 2002[,] and April 29, 2003, but have apparently not been acted upon by the USPTO," however no documentation was submitted with the instant petition in support of this allegation.

Because the regulation requires Petitioner to notify the Office as soon as Petitioner is aware of a possible error in the filing date assigned, the Office is accepting the allegation over Petitioner's signature and registration number, and Petitioner's duty of candor requires that he notify the Office if this allegation is not supportable by extent documentation.

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/284,782, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 31 October, 2002; and
- issue a filing receipt specifying the filing date as that of 31 October, 2002.

The instant application is being forwarded to OIPE to be handled as set forth above before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gallagher & Lathrop, A Professional Corporation
601 California Street
Suite 1111
San Francisco, CA 94108

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Masayuki Itoi et al.	:	
Application No. 10/284,799	:	DECISION ON PETITION
Filed: October 30, 2002	:	TO WITHDRAW
Attorney Docket No. 4250.1-US-AA	:	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 2, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to David N. Lathrop and all attorneys/agents of record have been revoked by the applicant of the patent application on February 23, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Altera Law Group, LLC
220 S. 6 Street Suite 1700
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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MAIL Paper No. 4

JUL 0 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ATTN: JOHN J. OSKOREP
ONE MAGNIFICENT MILE CENTER
SUITE 1400
980 N. MICHIGAN AVENUE
CHICAGO, IL 60611

In re Application of:	:	
Chung et al.	:	PETITION FOR ENTRY
Application No. 10/284,811	:	OF FORMAL DRAWINGS
Filed: October 31, 2002	:	
For: PREAMPLIFIER CIRCUIT SUITABLE FOR	:	
USE IN MAGNETIC STORAGE DEVICES	:	

This is in response to the petition for requesting entry of replacement (formal) drawings.

After a careful review of the newly submitted drawings, no new matter appears to have been submitted. Since the filing of formal drawings does not require a petition, Petitioner will be refunded the $130 charged to the deposit account.

Accordingly, the petition is **DISMISSED AS MOOT**.

The application file will be forwarded to the Technology Center's technical support staff to refund the petition fee. From there, the application file will be returned to Central Files. The drawings will be reviewed when the case is examined.

James L. Dwyer, Director
Technology Center 2600
Communications

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)
6662744	2003-12-16	10284823	2002-11-01	

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

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	/Blair Wallhouse/	Date (YYYY-MM-DD)	2008-02-12
Name	Blair Wallhouse		

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. 6662744
Issue Date: December 16,2003
Application No. 10284823
Filed: November 1,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 12,2008 ,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 February 12,2008 . 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/05/06

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/284835** Patent No.: **6992247**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

11/15/06 2831
SPE Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert S. Schreiber et al	:	
Application No. 10/284,844	:	DECISION GRANTING PETITION
Filed: October 31, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 100110564-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of June 14, 2006, 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. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2185.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

OIPE JC101
DEC 01 2004
PATENT & TRADEMARK OFFICE

Attorney Docket: CRDC-P0382

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this transmittal of the below described documents is being deposited with the United States Postal Service in an envelope bearing Express Mail Postage and an Express Mail label, with the below serial number, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date of deposit.			
Express Mail Label No.:	EV576742338US	Name of Person Making the Deposit:	ANTHONY CHOU
Date of Deposit:	12/01/04	Signature of the Person Making the Deposit:	Anthony Chou

Inventor(s): Vladimir V. Makarov, William B. Thompson and Theordore R. Lundquist

Application No.: 10/284,845 Group Art Unit: 1763

Filed: 10/31/02 Examiner: Arancibia, M.

Confirmation No: 1088

Title: METHOD FOR SURFACE PREPARATION TO ENABLE UNIFORM ETCHING OF POLY-CRYSTALLINE MATERIALS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR WITHDRAWAL AS ATTORNEY FO RECORD (37 CFR 10.40(b)(4))

1. I, an attorney signing below, respectfully request permission to withdrawal from all further responsibility in this case, in accordance with 37 CFR 1.36.

   ☐ Because the amendment referred to in item 4A(iii) below is a continuing application signed only by an attorney named below under

   ☐ 37 CFR 1.60(b)

   ☐ 37 CFR 1.62(c)

   this request is also for such continuing application

Approved 5/2/05
Jacqueline M. Stone, Director
Technology Center 1700

LAST ADDRESS OF CLIENT

2. The mailing address of the:

   ☐ inventor(s)

   ☒ assignee of entire interest is: Credence Systems Corporation
   1421 California Circle, Milpitas, CA 95035-3099

BASIS FOR WITHDRAWAL REQUEST

3. The basis for the request for the withdrawal is 37 CFR 10.40(b)(4) _____
   Explanation (including brief description of exhibits, if any):

Assignee of entire interest has inadvertently employed two law firms, including Wagner, Murabito and Hao LLP, to prosecute this patent application.. Assignee of entire interest has requested that attorneys of Wagner, Murabito & Hao LLP withdraw as Attorneys of record.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

COPY MAILED

JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Yue Liu	:	
Application No. 10/284,863	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. H16-25545-D1(256.046US3)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 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 June 30, 2004. Accordingly, this application became abandoned on October 1, 2004.

The file is being forwarded to Technology Center 2800, for review of the amendment and terminal disclaimer, filed March 9, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN AND
FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of

Kunert, et al. :

Application No. 10/284,864

: DECISION ON PETITION

Filed: October 30, 2002

:

Attorney Docket No. 8299.87028

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed October 6, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on February 21, 2006, with a request for an extension of time within the second month. An Advisory Action mailed April 5, 2006, advised petitioner that the response of February 21, 2006, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on March 22, 2006. A Notice of Abandonment was mailed on August 7, 2006.

The Request for Continued Examination filed May 26, 2006, is noted and made of record

The application is being forwarded to Technology Center 1700, GAU 1731 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

COPY MAILED
DEC 09 2009
OFFICE OF PETITIONS

In re Patent No. 7,536,339 :
Issued: May 19, 2009 :
Application No. 10/284,884 : PATENT TERM ADJUSTMENT
Filed: October 31, 2002 :
Dkt. No.: 02-967 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed April 7, 2009. Patentee requests correction of the patent term adjustment from 1,355 days to 1,624 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,536,339 on May 19, 2009. The patent issued with a patent term adjustment of 1,355 days. Patentee argues that in view of Wyeth v. Dudas, Civil Action No. 07-1492, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 1,624 days (1,384 days pursuant to 35 USC 154(b)(1)(A) *plus* 983 days pursuant to 35 USC 154(b)(1)(B) *less* 714 overlapping days *less* 29 days of applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on July 10, 2008, the application was pending three years and 982 days after its filing date (November 1, 2005 to July 9, 2008). The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 1,384 days is correct. At issue is whether patentees should accrue 982 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 1,384 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 982 days of delay in issuing the patent overlaps with the 1,384 days of examination delay under 37 CFR 1.702(a). 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:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

---

[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), October 31, 2002, and ending on July 9, 2008, the day before the date that the RCE was filed on July 10, 2008.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 1,384 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 982 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 982 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 1,384 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 982 days and the 1,384 days is neither permitted nor warranted given that 1,384 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 1,355 days of patent term adjustment, having considered the 982 days of Office delay under the three-year pendency provision in conjunction with the 1,384 days of delay under 37 CFR 1.702(a)(1), reduced 29 days for applicant delay.

In view thereof, no adjustment to the patent term will be made.

The required patent term adjustment application fee of $200.00 has been charged to Deposit Acct. No. 13-2490, as authorized.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
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)
6756854	2004-06-29	10284911	2002-10-31	AERO-01000us0

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/david lovejoy/	Date (YYYY-MM-DD)	2009-06-05
Name	David E. Lovejoy	Registration Number	22748

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. 6756854
Issue Date: June 29,2004
Application No. 10284911
Filed: October 31,2002
Attorney Docket No. AERO-01000US0

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 5,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/284935

Paper No.: —

DATE : 10/4/05

TO SPE OF : ART UNIT 3722

SUBJECT : Request for Certificate of Correction on Patent No.: 6932358

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

It should be noted that the fourth entry appears to have a typo. "Column 39, after..." should be "Column 3, line 39, after...". I have attached a marked up copy of the PTO/SB/44.

Bo- [illegible]
SPE

3722
Art Unit

PTO/SB/44 (07-03)
Approved for use through 01/31/2004. 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. : 6,932,358 B1

DATED : August 23, 2005

INVENTOR(S) : Geisman, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 3, line 28, after the word "sleeve", please insert - - 22 - -;

Column 3, line 29, after the word "support", please insert - - 10 - -;

Column 3, line 31, delete "12" and insert - - 10 - -;

Column 39, after the word "support", please insert - - 10 - -;

Column 3, line 46, after the word "recesses", please insert - - 38 - -.

Column 3, line 39

MAILING ADDRESS OF SENDER: Young & Basile
2001 Commonwealth Blvd., Ste 301
Ann Arbor, MI 48105

PATENT NO. 6,932,358 B1

No. of additional copies

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.

1 6 2005

PET DEC

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JUN - 1 2004

In re Application of	:	
Jingping Liu et al	:	
Serial Number : 10/284,945	:	WITHDRAWAL
Filed : October 31, 2002	:	FROM
For : PLASTICIZED PROLAMINE	:	ISSUE
COMPOSITIONS	:	

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.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Bell, Boyd & Lloyd LLC
P O Box 1135
Chicago, IL 60690-1135

cc:Allowed Files, Pk3-915

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JUN - 1 2004

In re Application of	:	
Jingping Liu et al	:	
Serial Number : 10/284,945	:	WITHDRAWAL
Filed : October 31, 2002	:	FROM
For : PLASTICIZED PROLAMINE	:	ISSUE
COMPOSITIONS	:	

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

Bell, Boyd & Lloyd LLC
P O Box 1135
Chicago, IL 60690-1135

cc:Allowed Files, Pk3-915

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WASHINGTON, D.C. 20231
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Paper No. 4

CANTOR COLBURN LLP
55 Griffin South Road
Bloomfield CT 06002

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MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of
Seo, et al.
Application No. 10/284,951
Filed: October 31, 2002
Attorney Docket No. LNK-0020
For: CARD DEVICE FOR WIRELESS DATA COMMUNICATION

: ON
: PETITION

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.53(e) and 1.181(a) FOR WITHDRAWAL OF NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION," filed February 5, 2003. The petition will be treated under 37 CFR 1.53(e) and 1.182.

The petition under 37 CFR 1.53(e) to accord an October 31, 2002 filing date for the application based on the argument that the allegedly omitted figures were present among the English language application papers filed on October 31, 2002 is **DISMISSED**.

The petition under 37 CFR 1.182 to accord an October 31, 2002 filing date for the application based on the presence of identical drawings in the Korean priority document is **GRANTED**.

The application was deposited on October 31, 2002. On December 5, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application stating that the application had not been accorded a filing date because it was deposited without drawings.

In response, the instant petition was filed wherein petitioners state that the application is entitled to an October 31, 2002 filing date because two drawing sheets were included with the originally filed application papers according to the Certificate of Mailing by Express Mail and the return postcard receipt.

In support, applicants have submitted a copy of applicants' postcard receipt showing an Office of Initial Patent Examination generated barcode showing October 31, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 2 pages of drawings.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on

the date stamped thereon. However, if the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. MPEP 503. The itemized postcard in this case is annotated. The entry for drawings is crossed out and the initials "YB" are above the cross out. The cross out is consistent with the annotation in the application file which reads, " The PTO did not receive the following listed item(s) 2 page of formal drawing." Therefore, the postcard receipt cannot establish drawings were filed on October 31, 2002.

Regarding petitioners' Express Mail argument, petitioners are advised that the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office,...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s)... were filed in the Office with such correspondence. In addition, petitioners are reminded that a certificate of mailing cannot be utilized to establish a filing date for an application. 37 CFR 1.8(a)(2)(I)(A).

The petition under 37 CFR 1.53(e) is **DISMISSED**.

However, a physical copy of Korean application no. 2001-0074609 was filed on October 31, 2002 as a priority document. Pursuant to 37 CFR 1.52(d), a nonprovisional application may be in a language other than English. This foreign application appears to contain the same drawings as those English language drawings intended to be filed in the above-identified application.[1]

Therefore, on petition under 37 CFR 1.182, the Korean application drawings may be utilized for filing date purposes. The application is entitled to an October 31, 2002 filing date using the Korean drawings.

Pursuant to petitioners' authorization, deposit account no. 06-1130 will be charged $130.00 for the petition under 37 CFR 1.53(e) and $130.00 for the petition under 37 CFR 1.182.

This application is being returned to the Office of Initial Patent Examination for further processing, using the Korean application drawings. OIPE will mail a filing receipt citing **October 31, 2002** as the filing date for the application. In addition, OIPE will mail Notice informing petitioners of the necessity to file an English language translation of the non-English language drawing, a statement that the translation is accurate, and the $130.00 processing fee.

---

[1] The Office assumes that there is no new matter in the Korean drawings. If this assumption is incorrect, petitioners should contact the Office.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John J. Oskorep, Esq.
One Magnificent Mile Center
980 N. Michigan Avenue, Ste. 1400
Chicago, IL 60611

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JUN 1 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,842,306	:	
Issue Date: January 11, 2005	:	
Application No. 10/284,988	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. SJO920020098US1	:	

This is a decision on the petition filed March 14, 2005, which is being treated as a petition under 37 CFR 3.81[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**.

In view of this decision, petitioner may request a Certificate of Correction pursuant to the provisions of 37 CFR 1.323. Any request for a Certificate of Correction must be accompanied by the $100 Certificate of Correction fee.

This patented file is being referred to the Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *See Official Gazette of June 22, 2004*

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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

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APR 29 2005

OFFICE OF PETITIONS

In re Application of :
Christopher G. Engel, et al. :
Application No. 10/284,992 :
Filed: October 31, 2002 :
Attorney Docket No. 1-73708 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 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 application became abandoned on June 28, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3700, Art Unit 3727 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 13

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DEC 3 1 2003

OFFICE OF PETITIONS

ACCENTURE C/O MORRISON & FOERSTER
755 PAGE MILL ROAD
PALO ALTO CA 94304

In re Application of
SCOLINI et al.
Application No. 10/285,000
Filed: October 30, 2002
Attorney Docket No. 426882004300

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 6, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f). The Office of Petitions recently received the above-identified application to render a decision on the present petition. The Office sincerely apologizes for any inconvenience to petitioner.

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 November 27, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and,

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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. The Office records indicate that the application published on December 18, 2003.

This application is being forwarded to Technology Center Art Unit 2624.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

John P. White
Cooper & Dunham LLP
1185 Avenue of the Americas
New York NY 10036

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OFFICE OF PETITIONS

In re Application of Smith et al. Application No. 10/295,019 Filed: October 31, 2002 Attorney Docket No. 1795/50233-EA/JPW/PL	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53, filed March 11, 2003 (certificate of mailing March 4, 2003), requesting that page 187 of the specification be accorded a filing date of October 31, 2002, as part of the original disclosure.

On October 31, 2002, applicants filed the above-identified application. On January 9, 2003, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of October 31, 2002, and requiring applicants to submit an executed oath or declaration and a surcharge for its late filing. Additionally, the Notice advised applicants that page 187 of the specification appeared to have been omitted.

In response, on March 11, 2003 (certificate of mailing March 4, 2003), applicants filed, inter alia, a copy of page 187 of the specification, the present petition and petition fee. The petition is accompanied by a copy of applicants' postcard receipt acknowledging receipt of, inter alia, 181 pages of specification, 41 pages of claims, and 1 page of abstract in the United States Patent and Trademark Office on October 31, 2002. In the present petition, applicants request that the application, including page 187 of the specification, be accorded a filing date of October 31, 2002.

Upon review of the record, page 187, deposited on October 31, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 31, 2002, included page 187 of the specification, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 187, was complete on filing and entitled to a filing date of October 31, 2002.

The requirement for omitted page 187 of the specification was sent in error and is hereby vacated.

The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 03-3125, as requested by applicants.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 31, 2002, using page 187 of the specification filed with the present petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Brian F. Ruff :
Application No. 10/285,020 :
Filed: October 30, 2002 :
Attorney Docket No. 1528.052US1 :

This is a decision on the petition filed November 25, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned October 4, 2005 for failure to timely pay the issue fee on or before October 3, 2005. Accordingly, a Notice of Abandonment was mailed November 7, 2005.

The issue fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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CHIAN CHIU LI
859 BLAIR AVENUE, #2
SUNNYVALE, CA 94087-1118

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OFFICE OF PETITIONS

In re Application of	:	
Chian Chiu Li	:	
Application No. 10/285,022	:	DECISION GRANTING PETITION
Filed: October 30, 2002	:	UNDER 37 CFR 1.313(c)(2)
For: STACK-TYPE DIODE LASER DEVICE	:	

This is a decision on the petition, filed November 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Mahamedi Paradice Kreisman LLP (NLMI)
550 South Winchester Blvd.
Suite 605
San Jose, CA 95128

Mail Date: 04/23/2010

Applicant	: Thomas Diede	: DECISION ON REQUEST FOR
Patent Number	: RE40932	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/285,031	: OF WYETH
Filed	: 10/31/2002	:
		:

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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NORA M TOCUPS
PO BOX 698
140 PINECREST AVE
DECATUR GA 30030

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In re Application of	:	
Adamczyk, et al.	:	
Application No. 10/285,033	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 99036DIV	:	

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 9, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed May 29, 2003. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on August 30, 2003. The Office mailed a Notice of Abandonment on January 14, 2004. Applicants filed a petition to withdraw the holding of abandonment on March 8, 2004. The petition was dismissed in a decision mailed on July 14, 2008. The decision concluded the applicants demonstrated that a reply had been filed on December 1, 2003, made timely by filing a three month extension of time, and by the fact that November 29, 2003 fell on a Saturday. However, the decision pointed out that applicants had not submitted proof that their credit card was charged for the three month extension. In view thereof, the decision explained that applicants would need to submit such proof, or submit a three month extension of time anew.

With the instant renewed petition, applicants have submitted a three month extension of time.

In view thereof, the holding of abandonment is **WITHDRAWN**.

The application is being forwarded to Group Art Unit 2645 for consideration of the amendment filed on December 1, 2003 (a copy of which was supplied with the petition filed on March 8, 2004).

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NORA M TOCUPS
PO BOX 698
140 PINECREST AVE
DECATUR GA 30030

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JUL 14 2008

In re Application of	:	
Adamczyk, et al.	:	
Application No. 10/285,033	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 99036DIV	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 8, 2004. The petition was recently forwarded to the Office of Petitions for consideration.

The petition under 37 CFR 1.181 is **DISMISSED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed May 29, 2003. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on August 30, 2003. The Office mailed a Notice of Abandonment on January 14, 2004.

With the instant petition, petitioner argues that she timely filed a response on December 1, 2003, made timely by obtaining a three month extension of time, and by the fact that November 29, 2003 fell on a Saturday. See 37 CFR 1.7(a). In support thereof, petitioner has included a copy of the response bearing a Certificate of Transmission dated December 1, 2003. In addition, petitioner has also included a copy of a Facsimile Confirmation

Report. Accordingly, it is concluded that petitioner has successfully demonstrated that a reply was filed on December 1, 2003.

However, petitioner has presented no evidence that her credit card was charged the amount for a three month extension of time. As such, on renewed petition, petitioner must present the Office with such evidence, or must submit a three month extension of time.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

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JUL 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Wong et al.	:	
Application No. 10/285,047	:	ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No. 019029-0302296	:	

This is a decision on the petition under 37 CFR 1.181, filed March 7, 2006, requesting the withdrawal of the holding of abandonment in the above-identified application, and the petition under 37 C.F.R. § 1.137(b), filed July 10, 2006, to revive the above-identified application.

The petition under 37 C.F.R. § 1.181 is **DISMISSED**.

The above-identified application was deemed abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 1, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 2, 2005. A Notice of Abandonment was mailed on March 1, 2006.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the Auto-Reply Facsimile Transmission, dated November 28, 2005.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment. Although the petitioner timely filed the Issue Fee Transmittal on November 28, 2005, via facsimile transmission, the deposit account listed on the form did not have sufficient funds for payment of the issue fee and publication fee. This reason is not valid to withdraw the holding of abandonment.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The entity status has also been updated to Large Entity. Accordingly, the fees associated with the instant petition will be at the large entity rate.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WONG CABELLO LUTSCH
RUTHERFORD & BRUCCULERI PC
20333 STATE HIGHWAY 249
HOUSTON, TX 77070

COPY MAILED

OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Robert E. Smith III :
Application No. 10/285,062 : DECISION GRANTING PETITION
Filed: October 31, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NAT.0069US :

This is a decision on the petition, filed October 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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United States Patent and Trademark Office
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JUN 2 0 2006

OFFICE OF PETITIONS

FISH & NEAVE IP GROUP
ROPES & GRAY, LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

In re Application of
Hagerty, et. al.
Application No. 10/285,080
Filed: October 31, 2002
Attorney Docket No. UMNJ-P01-002

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on January 27, 2006.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Kenneth Watov
Watov & Kipnes, PC
P.O. Box 247
Princeton Junction, NJ 08550

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PATENT COUNSEL
APPLIED MATERIALS, INC.
Legal Affairs Department
P.O. BOX 450-A
Santa Clara CA 95035

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Hiroji Hanawa et al.	:	
Application No. 10/285,092	:	ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No. 4609 P01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 23, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 25, 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 $1500; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1753 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Robert M. Wallace**
2112 Eastman Ave., Suite 102
Ventura, CA 93003

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061006

DATE : October 6, 2006

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction on Patent No.: 6862302

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: Min Harvey **Art Unit** 2828

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061128

DATE : November 28, 2006

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction on Patent No.: 6855920

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:

All changes have been approved.

Georgia Y. Epps

SPE: Georgia Y. Epps **Art Unit** 2878

OIPE JC48
JUL 2 2 2004
PATENT & TRADEMARK OFFICE

Pet. Dec. 1723

IN THE UNITED STATES PATENT OFFICE

Art Unit:	1723
Examiner:	David L. Sorkin
Applicant:	James K. Murosako
Assignee	Holding Tank, Inc.
Serial No:	10/285,116
Filed:	10/30/2002
Entitled:	MIXER
Docket No:	42050-003
Date:	July 20, 2004

PETITION FOR WITHDRAWAL OF ATTORNEY OF RECORD PURSUANT TO 37 C.F.R. § 10.40(b)(4) OR, ALTERNATIVELY, 37 C.F.R. § 10(c)(1)(vi)

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
Jacqueline M. Stone, Director
Technology Center 1700 OCT 1 2004

Sir:

We respectfully request the approval of the Commissioner to withdraw as attorneys of record for the Assignee. The Assignee has informed us that its business is dissolving and is unable to pay any current outstanding attorneys fees and instructed us to terminate any work. Therefore, we are requesting mandatory withdrawal pursuant to 37 C.F.R. § 10.40(b)(4) or, alternatively, permissive withdrawal pursuant to 37 C.F.R. § 10.40(c)(1)(vi). All papers and property in our file concerning the prosecution of the application to date have been previously delivered to Assignee. The Assignee has been advised of the August 19, 2004 deadline in which to respond to the pending Office Action of May 19, 2004.

Please address all further correspondence relating to the above-identified application to:

Michael T. Baden
C/o Holding Tank, Inc.
2100 SE Lake Rd., Suite 3
Milwaukie, OR 97222

I hereby certify that this correspondence is being deposited today with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

July 20, 2004
Date

Melanie Langer

42050-003 \ 146081.doc

Pet. Dec.

Respectfully submitted,

By _____

Kathleen T. Petrich, Reg No. 37,205
Stokes Lawrence, P.S.
800 Fifth Avenue, Suite 4000
Seattle, WA 98104-3179
T: 206.626-6000
F: 206.464-1496
E-mail: kathleen.petrich@stokeslaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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JAN 3 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Marius Buibas :
Application No. 10/285,154 :
Filed: October 31, 2002 :
Attorney Docket No. 200207807-1 :

This is a decision on the petition, filed January 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 January 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2853 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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October 5, 2005

Richard J. McGrath
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747

Patent No.: **6939001 B2**
Inventor(s): **Marius Buibas**
Issued: September 6, 2005
Title: **MECHANISM FOR PASSING RIGID MEDIUM UNDER IMAGE-FORMING MECHANISM**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH, LLP
8110 GATEHOUSE RD.
SUITE 100 EAST
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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OCT 19 2005

OFFICE OF PETITIONS

In re Patent No. 6,939,001	:	
Issue Date: September 6, 2005	:	
Application No. 10/285,154	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 4995-0103PUS1	:	

This is a decision on the petition filed September 16, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY CA 94720

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OFFICE OF PETITIONS

In re Application of
Alivisatos et al.
Application No. 10/285,187
Filed: October 30, 2002
Title of Invention: Semiconductor Nanocrystal-Based Cellular Imaging

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a non-final Office Action which was mailed on October 26, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. An amendment was submitted on January 24, 2006. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on February 6, 2006 which set an extendable reply period of one month. A timely reply to the Notice of Non-Compliant Amendment was not received. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 7, 2006. A Notice of Abandonment was mailed on September 1, 2006.

An improper Request for Continued Examination (RCE) with the submission requirement has been submitted with the petition to revive. It is noted an RCE is not a proper reply to a non-final Office Action because prosecution in the application was not closed. However review of the record shows that the RCE was accompanied by an amendment. Thus the amendment submitted will be forwarded to the examiner for review.

The statement of unintentional delay presented in the petition does not comply with the

current rule. Pursuant to 37 CFR 1.137(b)(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" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 1651 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. BOX 1450
Alexandria, Va 22313- 1450
www.uspto.gov.

DATE: **June 21, 2005**

Wesley W. Whitmyer, Jr.
ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 Bedford Street
Stamford, CT 06905

Patent No: **6890298 B2**
Applicant: **George Berci, et al.**
Issued : **May 10 2005**
Title : VIDEO LARYNGOSCOPE WITH DETACHABLE LIGHT AND IMAGE GUIDES

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 Rules 1.322.

A petition under C.F.R. 1.182 is required to correct the alleged errors in incorrect inventor's name since inventor's names are printed solely in accordance with the typed/printed names (not the signature), and since non-initialed and non-dated changes are not taken into consideration. Therefore, no correction is in order here under the provision of Rule 1.322 (required fee currently $100), unless a petition is granted (See M.P.E.P. 605.04(b).

In view of the foregoing, your request in this matter is hereby **denied**.

Any petition under 37CFR 1.182 (required fee currently $130) should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address of FAX number

By Mail: Commissioner of Patents and Trademarks
Mail Stop: Petitions
Alexandria, VA 22313

By Fax: (703) 308-6916
Attn: Office of Petitions

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificates of Correction
(703) 305-8309 or 308-9390 ext.113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

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OFFICE OF PETITIONS

In re Application of
Norman W. Finn
Application No. 10/285,201
Filed: October 31, 2002
Attorney Docket No: 112025-0491

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed December 23, 2008, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before October 27, 2008 as was required by the Notice of Allowance mailed July 25, 2008. This application therefore became abandoned on October 28, 2008. Accordingly, a Notice of Abandonment was mailed November 17, 2008.

The file record discloses that the Notice of Allowance was mailed to the address of record, the same address to which the Notice of Abandonment was mailed and received. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the file jacket and docket records revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn.

This matter is being referred to Technology Center 2145 for a re-sending of the Notice of Allowance and Notice of Allowability.

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

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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 04/23/2010

Applicant	: Norman W. Finn	: DECISION ON REQUEST FOR
Patent Number	: 7606939	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/285,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1337** 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
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www.uspto.gov

WATOV & KIPNES, P.C.
P.O. BOX 247
PRINCETON JUNCTION, NJ 08550

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JAN 29 2009

OFFICE OF PETITIONS

In re Patent No. 6,685,916 :
Issue Date: February 3, 2004 :
Application No. 10/285,217 : ON PETITION
Filed: October 31, 2002 :
Attorney Docket No. (20001)-07-LAV :

This is a decision in response to a petition filed April 28, 2008, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 3, 2008 for failure to pay the 3 ½ maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner should note that the fees required for reinstatement of this patent are $930 for the 3 ½ year maintenance fee and $1,640 for the surcharge. Accordingly, the excess payment of $30 has been refunded to petitioner's deposit account as authorized.

The patent file is being forwarded to Files Repository.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hillel T. Cohn, Esq.
Morrison & Foerster LLP
555 West Fifth Street
Suite 3500
Los Angeles CA 90013-1024

In re Application of	:	
William C. Terrell et al.	:	
Application No. 10/285,226	:	DECISION ON PETITION
Filed: October 31, 2002	:	TO WITHDRAW
Attorney Docket No. 592442000412	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed December 12, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Richard C. Kim and those practitioners associated with application have been revoked by the assignee of the patent application on July 18, 2006. 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 first address listed below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: KLEIN, O'NEILL & SINGH, LLP
43 CORPORATE PARK
SUITE 204
IRVINE, CA 92606

cc: Tejinder Singh
Klein, O'neill & Singh, LLP.
2 Park Plaza, Suite 510
Irvine, CA 92614

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
10/285,226	10/31/2002	William C. Terrell	39658.00018

CONFIRMATION NO. 1314

OC000000020867804

Hillel T. Cohn, Esq.
Morrison & Foerster LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

Date Mailed: 10/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/18/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/285,226	10/31/2002	William C. Terrell	39658.00018

CONFIRMATION NO. 1314

OC000000020867876

22145
KLEIN, O'NEILL & SINGH, LLP
43 CORPORATE PARK
SUITE 204
IRVINE, CA 92606

Date Mailed: 10/17/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/18/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

CHARLES SMOOT
OP (571) 272-3299

ATTORNEY/APPLICANT COPY

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BAKER & DANIELS LLP
205 W. JEFFERSON BOULEVARD
SUITE 250
SOUTH BEND IN 46601

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FEB 0 7 2007

OFFICE OF PETITIONS

In re Application of :
Vandeman et al. :
Application No. 10/285,232 :
Filed: October 31, 2002 :
Attorney Docket No. ATP0010.01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 6, 2005, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed January 10, 2005, which set a shortened statutory period for reply of three (3) months. A reply was due on or before April 10, 2005. A Notice of Abandonment was mailed on August 23, 2005.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on May 12, 2005 of 1. Amendment; and 2. Petition for Extension of Time. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of May 10, 2005.

The reply acknowledged as having been received in the USPTO on May 12, 2005 (certificate of mailing date of May 10, 2005) is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card 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." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 3635 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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APR 1 2 2004

OFFICE OF PETITIONS

ALSTON & BIRD LLP
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

In re Application of	:	
Alan D. Williams et al	:	
Application No. 10/285,261	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 31599/254915		

This is a decision on the petition, filed April 8, 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 22, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 1711 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. ____

WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Darin James Douma et al	:	
Application No. 10/285,264	:	DECISION GRANTING PETITION
Filed: October 30, 2002	:	UNDER 37 CFR 1.182
Attorney Docket No. 15436.246.2.1	:	

This is a decision on the petition under 37 CFR 1.182, filed June 8, 2004, to change joint inventor Stephen G. Hosking's name to - Lucy G. Hosking -.

The petition is **granted**.

Office records have been changed to reflect the aforementioned inventor change of name. A corrected Filing Receipt accompanies this decision on petition.

Inquiries concerning this matter may be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.[1]

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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[1] There is no indication that the issue fee required by the Notice of October 1, 2004 has been received. Petitioner is advised that the issue fee must be received on or before January 3, 2005 to avoid the abandonment of the instant application.

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PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

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JUN 2 0 2007

OFFICE OF PETITIONS

In re Application of
George Poiani
Application No. 10/285,270
Filed: October 30, 2002
Attorney Docket No. 40170.8001.US09

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 January 10, 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 Lauren Sliger on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The 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: GEORGE POIANI
7805 SHADY GROVE ROAD
MOUNT CRAWFORD, VA 22841

cc: BARABARA V. MAURER
PATENT COUNSEL, LEGAL MANAGEMENT
UNIVERSITY OF MEDICINE AND
DENTISTRY OF NEW JERSEY
335 GEORGE STREET
SUITE 3200
NEW BRUNSWICK, NJ 08901

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/285,270	10/30/2002	George Poiani	40170.8001.US09

CONFIRMATION NO. 2538

OC000000024400513

34055
PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE, WA 98111-1208

Date Mailed: 06/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/10/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

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OFFICE OF PETITIONS

BROOKS & KUSHMAN
1000 TOWN CENTER 22ND FL
SOUTHFIELD, MI 48075

In re Application of :
Gonzales, et al. :
Application No. 10/285,272 :
Filed: October 31, 2002 :
Attorney Docket No.: BEPI 0101 PUS :
For: FLUID CONDUCTING ELBOW :

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 10, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Gladwyn W. Cummins and Maria Atwood, legal representative of deceased inventor Robert K. Atwood, 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
Office of the Deputy Commissioner
for Patent Examination Policy

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JAMES J. NAPOLI
MARSHALL GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606-6357

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OFFICE OF PETITIONS

In re Application of :
Miodrag Radulovacki et al :
Application No. 10/285,277 :
Filed: October 31, 2002 :
Attorney Docket No. 27611/34525C

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Files Repository.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Story, et al.	:	
Application No. 10/285,287	:	DECISION DISMISSING PETITIONS
Filed: October 31, 2002	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 10209.460	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 6, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

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.

Several applications listed in the benefit chain were filed **after** the present application was filed on October 31, 2002. These applications include: Application No. 11/360,550, filed February 23, 2006, Application No. 11/553,323, filed October 26, 2006, Application No. 10/993,883, filed November 19, 2004, and Application No. 10/286,167, filed November 1, 2002. As such, the present application cannot claim benefit to them.

This application cannot claim benefit directly to Application No. 09/384,784 because it matured into Patent No. 6,254,913 on July 3, 2001. The present application was not filed until October 31, 2002. Thus, there is no copendency between the two applications.

In the course of addressing this petition, a review of Application No. 11/360,550 was undertaken. Petitioners are informed that Application No. 11/360,550 does **not** properly claim benefit to Application No. 10/285,359 because Application No. 11/360,550 does not contain a reference to Application No. 10/285,359 that indicates the relationship of the applications. As explained above, this application cannot claim benefit of Application No. 11/360,550. However, if applicants wish to claim benefit of Application No. 10/285,359 in Application No. 11/360,550, a petition under 37 CFR 1.78(a)(3) is required.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 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 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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WONG, CABELLO, LUTSCH,
RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON TX 77070

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JUN 06 2008

In re Application of	:	
Isip, et al.	:	
Application No.: 10/285,309	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No: 112-0069US	:	

This is in response to the petition under 37 CFR 1.137(b) filed May 20, 2008.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to file a timely appeal brief after the filing of a Notice of Appeal on May 11, 2007. The application became abandoned on July 12, 2007. A Notice of Abandonment was mailed May 13, 2008.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

The Appeal Brief filed May 20, 2008, is noted, however, the appeal brief was not accompanied by the fee required by 37 CFR 41.20. Although there is an authorization in the application file to charge a deposit account for fees under 37 CFR 1.16, 1.17. 1.19, 1.20, and 1.21, there is no authorization to charge fees authorized under 37 CFR 41.20 or 41.37. Accordingly, the Appeal Brief is not a proper response because it is not accompanied by the required fee. The petition is dismissed. The renewed petition must be accompanied by the fee required by 37 CFR 41.20 or authorize a deposit account to be charged for the same.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON TX 77070

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OFFICE OF PETITIONS

In re Application of
Isip, et al.
Application No.: 10/285,309
Filed: October 31, 2002
Attorney Docket No: 112-0069US

ON PETITION

This is in response to the renewed petition under 37 CFR 1.137(b) filed June 11, 2008.

The renewed petition is GRANTED.

This application became abandoned for failure to file a timely appeal brief after the filing of a Notice of Appeal on May 11, 2007. The application became abandoned on July 12, 2007. A Notice of Abandonment was mailed May 13, 2008. A petition under 37 CFR 1.137(b) was first filed May 20, 2008, and dismissed by a decision mailed June 6, 2008.

The Appeal Brief filed May 20, 2008, is noted.

The application file is being directed to Technology Center 2100, GAU 2145 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604

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OFFICE OF PETITIONS

In re Application of :
Smith, et al. :
Application No. 10/285,312 : ON PETITION
Filed: October 31, 2002 :
Attorney Docket No. 1-23649 :
For: AUTOMATIC DIRECTIONAL CONTROL SYSTEM FOR VEHICLE HEADLIGHTS

This is a decision on the petition under 37 CFR 1.181, filed July 11, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to file an appropriate follow-up submission after the filing of a Notice of Appeal on January 9, 2006. A Notice of Abandonment was mailed on April 6, 2006. The Notice of Abandonment states that the application became abandoned because no reply had been received to the Notice of Panel Decision from Pre-Appeal Brief Review, mailed February 3, 2006.

Petitioners assert the Notice of Abandonment was mailed prematurely and should be withdrawn. Petitioners note that the time for filing an Appeal brief ran from the filing date of the Notice of Appeal, dated January 9, 2006 (including any extensions of time that may be granted.) It is noted that the February 3, 2006 Notice states that the time period for filing a follow-up submission is extendable under 37 CFR 1.136 based upon the mail date of the February 3, 2006 Notice or the receipt date of the Notice of Appeal, as applicable.

Petitioners are correct. A review of the application file reveals that a RCE and authorization to charge required fees (including extension of time fees) was filed on August 9, 2006. August 9, 2006 was the last possible day (two months from January 9, 2006 plus a five month extension of time) to file a timely follow-up submission to the January 9, 2006 Notice of Appeal.

The petition under 37 CFR 1.181 is **granted** and the Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter. However, a five month extension of time fee of $2,160.00 and a RCE filing fee of $790.00 will be charged to deposit account no. 13-0005.

Accordingly, the application file will be forwarded to Technology Center A.U. 2875 for consideration of the RCE filed on August 9, 2006.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of	:	
Steven McCanne et al	:	
Application No. 10/285,315	:	ON PETITION
Filed: October 30, 2002	:	
Attorney Docket No. 021647-000100US	:	

This is a decision on the petition, filed October 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 18, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2144 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).

OIPE IAP28
OCT 2 4 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Steve McCanne *et al.*

Application No.: 10/285,315

Filed: October 30, 2002

For: TRANSACTION ACCELERATOR FOR CLIENT-SERVER COMMUNICATION SYSTEMS

Customer No.: 20350

Confirmation No.: 1416

Examiner: Tam T. Phan

Technology Center/Art Unit: 2144

PETITION TO WITHDRAW FROM ISSUE UNDER 37 C.F.R. 1.313(c)(2)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition under 37 C.F.R. § 1.313(c)(2) that the subject application be withdrawn from issue. The Issue Fee for this application was paid on August 16, 2005.

Applicants are filing herewith a Request for Continued Examination, along with an associated Information Disclosure Statement (IDS).

Respectfully submitted,

11/02/2005 AKELLEY 00000001 201430 10285315
01 FC:1464 130.00 DA

Philip H. Albert
Reg. No. 41,405

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400 Fax: 415-576-0300
PHA/djb
60609320 v1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-16-09

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/285339 Patent No.: 7451148

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:

a) Col 55 is not with claim 1
b) "template" and "templates" have different claim scope.
c) The proposed changes for claim 14 changes the scope of the claim

APU MOFIZ SUPERVISORY PATENT EXAMINER — SPE — APU MOFIZ SUPERVISORY PATENT EXAMINER — 2161 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 : August 12, 2009

Patent No. : 7451148
Inventor :Childress et al.
Patent Issued : November 11, 2008
Title : METHOD OF MODIFYING A BUSINESS RULE WHILE TRACKING THE
: MODIFICATIONS

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.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to cols. 55 and 57; the letters patent with regard to applicants request is printed in accordance with the records within the Patent and Trademark Office in that claim 11 is not reflected in column 55; "template" and "templates" have different claim scope in claim 14 line 56 and the proposed changes for claim 14, line 61 changes the scope of the claim.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Eric B. Meyertons, Esq.
Meyertons, Hood, Livlin, Lowert & Goetzel, P.C.
P.O. Box 398
Austin, Texas 78767-0398

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAHIVE & COCKFIELD, LLP
ONE POST OFFICER SQUARE
BOSTON MA 02109-2127

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JAN 10 2007

OFFICE OF PETITIONS

In re Application of	:	
David Hoch et al	:	
Application No. 10/285,342	:	DECISION GRANTING PETITION
Filed: October 30, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. LSQ-001RCE	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of January 18, 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 3714.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

COPY MAILED

OCT 01 2009

OFFICE OF PETITIONS

In re Patent No. 7,504,222	:	DECISION ON REQUEST FOR
Ayers, et al.	:	RECONSIDERATION OF
Issue Date: March 17, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/285,393	:	and
Filed: October 31, 2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. MRI-055	:	CERTIFICATE OF CORRECTION

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R.§1.705(D)," filed May 14, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred seventy-three (773) days to one thousand five hundred thirty-three (1,533) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of eight hundred sixty-three **(863)** days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On March 17, 2009, the above-identified application matured into U.S. Patent No. 7,504,222 with a patent term adjustment of 773 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentees argue that the determination of 773 days is in error in that pursuant to 35 U.S.C. §154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR § 1.702(b) and failed to take a certain action within a time frame specified in 37 CFR § 1.702(a).

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 1,233 days. This 1,233 day period is calculated based on the application having been filed under 35 U.S.C. §111 on October 31, 2002, and the patent having not issued until March 17, 2009, three years and 1,233 days later. Patentees assert that in addition to this 1,233 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a) of 702 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1).

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay.

Patentees further argue that the total period of applicant delay is 370 days. The Office has calculated the total period of applicant delay as 460 days. Reviewing patentees' Statement under 37 C.F.R. 1.702(b)(2), by process of elimination, it is deduced that patentees dispute the reduction of 90 days assessed in connection with the Request for Correction of Filing Receipt, filed December 18, 2008.

A Notice of Allowance was mailed on October 2, 2008. On December 18, 2008, patentees submitted a request for correction of filing receipt.

37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

A review of the record supports a conclusion that the request for corrected filing receipt although filed after the mailing of the notice of allowance, was not filed under circumstances that constitute a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application, as set forth in 37 CFR § 1.704. The request for corrected filing receipt was filed to correct an error in the filing receipt issued pursuant to the examiner's amendment mailed November 28, 2008. The period of reduction of 90 days is being removed.

Thus, the total period of applicant delay is 370 days, not 460 days.

Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (1,233 days) and the period of Examination Delay (702 days) to the extent that these periods of delay are not overlapping.

Patentees contend that 32 days of the period of delay of 702 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (January 1,

2005 to December 2, 2005) overlap with the Three Year Delay period (November 1, 2005 to March 17, 2009). Patentees assert that this overlapping period is the 32 days running from November 1, 2005 to December 2, 2005.

Accordingly, patentees submit that the total period of Office Delay is 1,903 days, which is the sum of the period of Three Year Delay (1,233 days) and the period of Examination Delay (702 days), reduced by the period of overlap (32 days).

Considering the total period of applicant delay is 370 days, patentees' assertion of entitlement to a patent term adjustment is considered to be 1,533 days (1,233 + 702 reduced by 32 overlap - 370 for applicant delay).

The Office agrees that the patent issued 3 years and 1,233 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 702 days is correct. At issue is whether patentees should accrue 1,201 (adjusted for overlap, per patentees' calculations) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 702 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 702 days overlap with the 1,233 period of Three Year Delay. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was

delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37*

CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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 31, 2002 to March 17, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 702 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of these 702 days overlap with the 1,233 days for Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 1,233 days. The Office took 14 months and 702 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 702 days of Office delay and the time allowed within the timeframes for processing and examination, and applicant delays, the patent issued, three years and 1,233 days after its filing date. The period of delay of 1,233 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 702 days attributable to ground specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered 531 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent (for a total period of Office delay of 1,233 days).

However, given the removal of the period of reduction, the revised determination of patent term adjustment at the time of the issuance of the patent is 863 days.

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 eight hundred sixty-three **(863)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,504,222 B2

DATED : **March 17, 2009** **DRAFT**

INVENTOR(S) : Mark D. Ayers 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 773 days

Delete the phrase "by 773 days" and insert – by 863 days--

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

MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston, MA 02110

Mail Date: 04/21/2010

Applicant	: Mark D. Ayers	: DECISION ON REQUEST FOR
Patent Number	: 7504222	: RECALCULATION of PATENT
Issue Date	: 03/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/285,393	: OF WYETH
Filed	: 10/31/2002	:
		:

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
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APR 23 2010

OFFICE OF PETITIONS

MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston MA 02110

In re Patent of Ayers et al.	:	DECISION ON REQUEST
Patent No. 7,504,222	:	FOR
Issued: March 17, 2009	:	RECONSIDERATION OF
Application No. 10/285,393	:	PATENT TERM ADJUSTMENT
Filed: October 31, 2002	:	AND
Atty Docket No. 117742-05503	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed October 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred thirty-three (1533) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred thirty-three (1533) days is **GRANTED to the extent indicated herein.**

The period of B delay in this case is 1183 days, not 1201 days as asserted by patentees. Patentees argue actual Board review is required in order for the appellate exclusion to apply. However, actual Board review is not required. The period of B delay begins on the day three years after the application's filing date, November 1, 2005, and ending on March 17, 2009, the date the patent issued, minus the excluded 50 day appellate period beginning on the date the Notice of Appeal was filed, October 18, 2007, and ending on December 6, 2007, the date an Office action under 35 U.S.C. 132 was mailed. *See* 35 U.S.C. 154(b)(1)(B)(ii). Patentees assert 32 days overlap between the period of A delay and the period B delay. The Office has determined no period of overlap.

Patentees' assertion the patent term adjustment is 1533 days is based in part on an assertion the period of B delay is 1201 days. As discussed above, the period of B delay is actually 1183 days. As a result, the patent term adjustment is 1515, not 1533 days. *See* 37 CFR 1.703(b).

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 37 CFR 1.136. *See* 37 CFR 1.323(a)(4).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e) on May 14, 2009. No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred fifteen (1515)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,504,222 B2

DATED : **March 17, 2009** **DRAFT**

INVENTOR(S) : Ayers, 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 773 days

Delete the phrase "by 773 days" and insert – by 1515 days--

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

GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH MA 01752

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MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of
Aguero, et al.
Application No. 10/285,396
Filed: October 31, 2002
Attorney Docket No. SRI-003 (US-4582-2)
For: SYSTEM AND METHOD OF MICRO-FLUIDIC HANDLING AND DISPENSING USING MICRO-NOZZLE STRUCTURES

ON PETITION

This is a decision on the petition, filed January 30, 2003 (certificate of mailing date January 24, 2003) under 37 CFR 1.53(e), requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 3, 2002, insofar as it alleges that Figures 9, 10, and 11 were omitted upon filing.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was filed on October 31, 2002. On December 3, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figures 9, 10, and 11 described in the specification appeared to have been omitted.

In response to the Notice, petitioners filed the present petition. Petitioners request that Figures 9, 10, and 11 be accorded a filing date of October 31, 2002 on the basis that 7 sheets of drawing figures, including Figures 9, 10, and 11, were received in the Patent and Trademark Office (PTO) on September 11, 2002.

Unfortunately, the instant petition is incomplete. The referenced date stamped postcard receipt cannot be located. Petitioners are requested to submit another copy of both sides of the date stamped postcard receipt.

The application file will be retained in the Office of Petitions until the date stamped postcard receipt is submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231
Attn: E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions/ E. Shirene Willis

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH MA 01752

COPY MAILED

APR 1 6 2003

OFFICE OF PETITIONS

In re Application of
Aguero, et al.
Application No. 10/285,396
Filed: October 31, 2002
Attorney Docket No. SRI-003 (US-4582-2)
For: SYSTEM AND METHOD OF MICRO-FLUIDIC HANDLING AND DISPENSING USING MICRO-NOZZLE STRUCTURES

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e) , filed via facsimile on March 28, 2003, requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 3, 2002, insofar as it alleges that Figures 9, 10, and 11 were omitted upon filing.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on October 31, 2002. On December 3, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figures 9, 10, and 11 described in the specification appeared to have been omitted.

In response to the Notice, petitioners filed the present petition. Petitioners request that Figures 9, 10, and 11 be accorded a filing date of October 31, 2002 on the basis that 7 sheets of drawing figures, including Figures 9, 10, and 11, were received in the Patent and Trademark Office (PTO) on October 31, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 31, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of drawings. Only 4 sheets are among the originally filed drawing figures. The three sheets missing correspond to those that would contain Figures 9, 10, and 11.

The return postcard constitutes *prima facie* evidence that 7 sheets of drawing figures, including Figures 9, 10, and 11, were filed on October 31, 2002. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be refunded. A treasury check will be scheduled in due course.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 31, 2002, using the copy of Figures 9, 10, and 11 submitted with the

instant petition. Office records will be corrected to show that 7 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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)
6941539	2005-09-06	10285401	2002-10-31	SRC018

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	/CWB/	Date (YYYY-MM-DD)	2009-10-16
Name	Carol W. BURTON	Registration Number	35465

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. 6941539
Issue Date: September 6,2005
Application No. 10285401
Filed: October 31,2002
Attorney Docket No. SRC018

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 16,2009 ,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 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

COPY MAILED
OCT 17 2005
OFFICE OF PETITIONS

In re Patent No. 6,922,183 :
Issue Date: July 26, 2005 :
Application No. 10/285,412 : ON PETITION
Filed: November 1, 2002 :
Attorney Docket No. SUND 426 :

This is a decision on the petition filed September 30, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228. 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.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *See* Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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
Suite 240
6550 Rock Spring Drive
Bethesda, MD
20817

MAILED

OCT 06 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 7

In re application of
Steven K. Lynch
Application No.10/285,430
Filed: November 1, 2002
For: REVERSE MOLDED PANEL

: **DECISION ON PETITION**
: **TO MAKE SPECIALM**
: **(INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 13, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed January 13, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/ekn 10/1/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FROM DIRECTOR'S OFFICE

AUG 1 9 2004

TECHNOLOGY CENTER 3600

Liniak, Berenato & White, LLC
6550 Rock Spring Drive, Suite 240
Bethesda, Maryland
20817

In re Application of
Steven Lynch et al.
Application No. 10/285,430
Filed: November 1, 2002
For: REVERSE MOLDED PANEL

: **DECISION ON PETITION**
: **TO EXPUNGE**

This is a decision on applicant's Petition to Expunge under 37 CFR 1.59(b) filed February 6, 2003.

The petition is **DENIED**.

A review of the file record reveals that a petition to make special (infringement) under 37 CFR 1.102(d) was filed on January 13, 2003 and was granted in a petition decision mailed October 6, 2003. Applicants have now reached an agreement with the owner of the infringing product and takes the position that the petition to make special is no longer needed. Applicants wish to expunge the petition to make special and copies of the advertisements submitted therewith.

As noted, the petition to make special had been considered and granted. Up to this point in prosecution, the application had enjoyed the benefits of special status. Further, the file would be unclear and incomplete if the material was removed. For these reasons, it would be improper to expunge the petition to make special.

The application is forwarded to the examiner of record for consideration of the Response and Election filed on July 22, 2004.

John J. Love, Director
Patent Technology Center 3600
(703) 308-1020

cdf/8/10/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 9, 2006

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/285433 Patent No.: 7,050,106 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

DAVID OMETZ
~~SUPERVISORY PATENT EXAMINER~~
SPE

2622
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 15

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112

COPY MAILED
JUL 1 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Noribumi Koitabashi et al	:	
Application No. 10/285,444	:	DECISION ON PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.182
Attorney Docket No. 01714.000045	:	

This is a decision on the "Petition under 37 CFR 1.182 to Vacate Previous Claim to Foreign Priority," filed October 10, 2003, which is being treated as a petition to transfer priority documents filed on January 13, 2003 in Application No. 10/285,529 to the present application.

The petition is **granted**.

As requested, foreign priority document Nos. 2001-340911, filed November 6, 2001, and 2002-308373, filed October 23, 2002, have been transferred from Application No. 10/285,529 to the present application. Additionally, as requested, petitioner's attorney docket number has been changed.

Petitioner is advised that, as the transferred priority document was not filed in the instant application, a claim for priority to that document pursuant to the provisions of 35 U.S.C. § 119(a)-(d) was not timely filed. *Note* 37 CFR 1.55, which states:

> In an original application filed under 35 U.S.C. 111(a), the claim for priority must be presented during the pendency of the application, and 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 * * * **The claim must identify the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the**

application number, country * * * day, month and year of its filing [emphasis supplied].

In view of the above, if petitioner herein desires to claim priority under 35 U.S.C. 119(a)-(d) of the foreign application, a petition under 37 CFR 1.55(c) and the surcharge fee required therefor must be submitted. Any such petition should be directed to the Office of Petitions and mailed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 2861 for further action.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Noribumi et al :
Application No. 10/285,444 : DECISION DISMISSING PETITION
Filed: November 1, 2002 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 01714.000045 :

This is a decision on the petition filed November 24, 2004, under 37 C.F.R. §1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d).

The petition is **DISMISSED**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition is not in compliance with item (2) above.

Office records **do not** show receipt of a substitute declaration. Therefore, a substitute declaration or a proper ADS in compliance with 37 CFR 1.76 is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of
Noribumi Koitabashi et al
Application No. 10/285,444
Filed: November 1, 2002
Attorney Docket No. 01714.000045

DECISION GRANTING PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition filed April 15, 2005, under 37 CFR 1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for benefit of the filing date of foreign Japan Application No. 2001-340911, filed November 6, 2001 and Japan Application No. 2002-308373, filed October 23, 2002.

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) must be accompanied by:

(1) the claim under 35 U.S.C. §119(a)-(d) to the prior foreign application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore,

---

[1] The claim must identify in the oath or declaration the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country, and the filing date. *Note* also 37 CFR 1.63(c)(2).

since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on November 1, 2002, which is after November 29, 2000 and within 12 months of November 6, 2001 and October 23, 2002 (the filing date of the foreign applications to which benefit is now being claimed). On October 10, 2003, and supplemented on April 15, 2005, an executed oath/declaration was received which identifies the foreign applications for which priority is claimed by application number, country and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) through (d) is **granted.**

A filing receipt accompanies this decision on petition.

This matter is being forwarded to Technology Center AU 2853 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a) through (d) and 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Filing Receipt

Re Submission

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 1/21/09 Paper No.: —

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/285449 Patent No.: 7449229 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER

SPE 1794 **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Chien :
Filed: November 1, 2002 : ON PETITION
Application No. 10/285,451 :
Dkt. No.: CHIE3031/EM/BEU :

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2004, to revive the above-identified application.

This application became abandoned December 5, 2003 for failure to timely file a proper response to the non-final Office action mailed September 4, 2003. The non-final Office action set a three (3) month shortened statutory period of time for response. No extensions of time under 37 CFR 1.136 were timely requested. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (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 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; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the non-final Office action mailed September 4, 2003 is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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KEVIN L. RUSSELL
601 SW SECOND AVENUE, SUITE 1600
PORTLAND, OR 97204-3157

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OFFICE OF PETITIONS

In re Application of	:	
Roy Siegel et al	:	
Application No. 10/285,464	:	DECISION GRANTING PETITION
Filed: October 30, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. KLR:0594.0270	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply within the three month shortened statutory period set in the nonfinal Office action of February 25, 2004. 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 May 26, 2004. A Notice of Abandonment was mailed on September 20, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). Accordingly, the reply to the nonfinal Office action of February 25, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being forwarded to Technology Center AU 2625 for appropriate action on the concurrently filed amendment.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Andrew M. Calderon
McGuireWoods, LLP
1750 Tysons Blvd, Suite 1800
McLean, VA 22102

Paper No. 6

In re application of
Richard E. Delph
Application No.10/285,517
Filed: November 01, 2002
For: FURNITURE UNIT USING DUAL SLIDER MECHANISM

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 26, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement or, in the alternative, under the procedure set forth in M.P.E.P. § 708.02, item VIII: Accelerated Examination.

In a telephone conversation with Andrew Calderon on 10/23/03 a selection was made to have the petition decided under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on *Infringement* must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

Since the petition filed September 26, 2003 includes all of the requirements under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement, 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.

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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 10/23/03

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Paper No. 13

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112

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OFFICE OF PETITIONS

In re Application of	:
Noribumi Koitabashi et al	:
Application No. 10/285,529	: DECISION ON PETITION
Filed: November 1, 2002	: UNDER 37 CFR 1.182
Attorney Docket No. 01714.000044	:

This is a decision on the "Petition under 37 CFR 1.182 to Vacate Previous Claim to Foreign Priority," filed October 10, 2003, which is being treated as a petition to transfer a priority document filed on January 13, 2003 in Application No. 10/285,444 to the present application.

The petition is **granted**.

As requested, foreign priority document No. 2001-340912, filed November 6, 2001, has been transferred from Application No. 10/285,444 to the present application. Additionally, as requested, petitioner's attorney docket number has been changed.

Petitioner is advised that, as the transferred priority document was not filed in the instant application, a claim for priority to that document pursuant to the provisions of 35 U.S.C. § 119(a)-(d) was not timely filed. *Note* 37 CFR 1.55, which states:

> In an original application filed under 35 U.S.C. 111(a), the claim for priority must be presented during the pendency of the application, and 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 * * * **The claim must identify the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the**

application number, country * * * day, month and year of its filing [emphasis supplied].

In view of the above, if petitioner herein desires to claim priority under 35 U.S.C. 119(a)-(d) of the foreign application, a petition under 37 CFR 1.55(c) and the surcharge fee required therefor must be submitted. Any such petition should be directed to the Office of Petitions and mailed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 2861 for further action.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Noribumi Koitabashi, et al.	:	
Application No. 10/285,529	:	DECISION GRANTING PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 01714.000044	:	

This is a decision on the petition under 37 CFR 1.55(c), filed November 30, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Application No. 2001-340912, filed November 6, 2001.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or 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).

The above-identified pending, nonprovisional application was filed on November 1, 2002, which is after November 29, 2000 and within 12 months of (the filing date of the foreign application to which benefit is now being claimed). On October 10, 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 $1,370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

A filing receipt accompanies this decision on petition.

This application is being forwarded to Technology Center AU 2861 for consideration by the examiner of record of (1) the foreign priority claim under 35 U.S.C. § 119(a)-(d), and (2) applicant's request for consideration and entry of the substitute specification filed February 13, 2004.

Any inquiries directly pertaining to this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Oliff & Berridge, PLC
P. O. Box 19928
Alexandria, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Kenji Hayashi :
Application No. 10/285,542 : ON PETITION
Filed: November 1, 2002 :
Attorney Docket No. 114019 :

This is a decision on the petition, filed December 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 September 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3223.

The application is being forwarded to Technology Center AU 1763 for processing of the request for continued examination under 37 CFR 1.114

Marianne E. Jenkins
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 must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. The request and pertinent attachments should be addressed to **Box Issue Fee**. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request in writing that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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)
6750336	2004-06-15	10285571	2002-11-01	230175USMF

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	/Marvin J. Spivak/	Date (YYYY-MM-DD)	2008-11-17
Name	Marvin J. Spivak	Registration Number	24913

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6750336
Issue Date: June 15,2004
Application No. 10285571
Filed: November 1,2002
Attorney Docket No. 230175US0

:

: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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 8

SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
Jennifer M. Haddox et al :
Application No. 10/285,576 : ON PETITION
Filed: November 1, 2002 :
Attorney Docket No. CIG-110 :

This is in response to the petition under 37 CFR 1.47(a), filed April 1, 2003.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2) set forth above.

As to item (1), rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). There is no indication in the present case whether joint inventor Gregory M. Kapfhammer was ever presented with a copy of the complete application papers for the instant nonprovisional application. 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. If joint inventor Kapfhammer was not presented with a copy of the application papers for the instant nonprovisional application, then Mr. Kapfhammer could not attest that he has "reviewed and understands the application papers" and could not execute the declaration he was requested to sign. While the statement of facts states "On January 31, 2003, a letter was sent to the non-signing inventor, Mr. Gregory Kapfhammer, via Certified Mail, Return Receipt Requested, to the address listed above, which requested execution of the Declaration and Assignment by Mr. Kapfhammer," it is unclear whether Mr. Kapfhammer was presented with a copy of the complete application papers. Did inventor Kapfhammer receive a copy of the application papers? 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 to the nonsigning inventor for signature. Unless petitioner can show that a copy of the application papers was presented to inventor Kapfhammer or that the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to inventor Kapfhammer's last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. **The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc.** See MPEP 409.03(d).

The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. If the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives 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 rule 47 petitioner that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to item (2), the declaration submitted with the petition is not in compliance with 37 CFR 1.63 and 1.64. The declaration fails to set forth the citizenship of joint inventor Timothy Tsai. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 is required. Note MPEP 409.03(a); MPEP 602, and MPEP 605.01.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Irvin Dingle.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202
By FAX:	(703) 308-6916 ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 10

SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of
Jennifer M. Haddox et al
Application No. 10/285,576
Filed: November 1, 2002
Attorney Docket No. CIG-110

ON PETITION

This is in response to the petition filed July 1, 2003, requesting reconsideration of a decision mailed May 2, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (2) set forth above.

As to item (2), the declaration submitted with the petition is not in compliance with 37 CFR 1.63 and 1.64. The declaration fails to set forth the citizenship of joint inventor Timothy Tsai. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 is required. Note MPEP 409.03(a); MPEP 602, and MPEP 605.01.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Irvin Dingle.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 12

SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of
Jennifer M. Haddox et al
Application No. 10/285,576
Filed: November 1, 2002
Attorney Docket No. CIG-110

ON PETITION

This is in response to the petition filed August 26, 2003, requesting reconsideration of a decision mailed May 2, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (2) set forth above.

As to item (2), the declaration is defective in that it has been amended. In this regard, the citizenship block for Timothy Tsai has been amended. Since the declaration cannot be amended, a new declaration is required that is not amended, altered or changed in any manner after it has been signed. See MPEP 602.01.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Irvin Dingle.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
McLEAN, VA 22102

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of
Jennifer M. Haddox et al
Application No. 10/285,576
Filed: November 1, 2002
Attorney Docket No: CIG-110

: DECISION GRANTING
:STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition filed October 29, 2003, requesting reconsideration of a decision mailed September 3, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the nonsigning inventor (Gregory M. Kapfhammer) has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Gregory M. Kapfhammer
23835 Highway 285
Cochranton, PA 16314-584

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of
Jennifer M. Haddox; Gregory M. Kapfhammer; Ryan Coyler; and Timothy Tsai
Application No. 10/285,576
Filed: November 1, 2002
For: METHOD FOR UNDERSTANDING AND TESTING THIRD PARTY SOFTWARE COMPONENTS

Dear Mr. Kapfhammer:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-8680. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Shaw Pittman LLP
1650 Tysons Boulevard
McLean, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD MI 48034-2442

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Walter H. Ohrbom et al	:	
Application No. 10/285,594	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. IN-5628	:	

This is a decision on the petition, filed August 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 July 16, 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 1713 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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BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD, MI 48034-2442

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SEP 1 0 2004

OFFICE OF PETITIONS

In re Application of
Walter H. Ohrbom, et al.
Application No. 10/285,600
Filed: October 31, 2002
Attorney Docket No. IN-5627

ON PETITION

This is a decision on the petition, filed August 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 July 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1713 for further processing of the request for continued examination under 37 CFR 1.114 filed August 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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Paper No. 3

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MAY 30 2003

OFFICE OF PETITIONS

CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA IL 61629-6490

In re Application of
Edmundson, Luetkemeyer, Gilmore & Crane
Application No. 10/285,656
Filed: October 31, 2002
Attorney Docket No. 01-359
For: METHOD AND SYSTEM FOR ANALYZING HEALTH INFORMATION

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 31, 2002.[1]

The petition under 37 CFR 1.47(a) is granted.

Petitioners have shown that the non-signing inventors, Crane and Gilmore, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition, signed by attorney of record W. Bryan McPherson, states that the inventors had opportunity to review the application papers, including the specification, claims and drawings, but both inventors orally refused to sign the declaration unless they received additional compensation. 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 inventors at their respective last known address. It is assumed that their respective last known address is that listed in the declaration. If this is not the case, petitioners must inform the Office of current contact information for the inventors. 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
Petitions Attorney
Office of Petitions

---

[1] A review of the application file reveals that the instant Rule 47 petition and fee was filed on October 31, 2002. Therefore, the Notice to File Missing Parts of Nonprovisional Application was mailed in error and is hereby vacated.

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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ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
William D. Zeilke, et. al.	:	
Application No. 10/285,662	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0124	:	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, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to ANTONELLI TERRY STOUT AND KRAUS LLP has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Randal A. McCoy, et. al.	:	
Application No. 10/285,663	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0122	:	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, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to ANTONELLI TERRY STOUT AND KRAUS LLP has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Randal A. McCoy, et. al.	:	
Application No. 10/285,664	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0119	:	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, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to ANTONELLI TERRY STOUT AND KRAUS LLP has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209

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OCT 11 2006

OFFICE OF PETITIONS

In re Application of	:	
William D. Zielke et al	:	
Application No. 10/285,666	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0117	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 23, 2005.

The petition is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki, along with all of the other attorneys associated with the law firm of Antonelli, Terry, Stout & Kraus, LLP, has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. §1.36(b) is **moot**.

All future communications from the Office will be directed to the below-listed address of record until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 3624 for examination in due course.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter Moenickheim, et. al.	:	
Application No. 10/285,667	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0121	:	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, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to ANTONELLI TERRY STOUT AND KRAUS LLP has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
William D. Zielke, et. al.	:	
Application No. 10/285,669	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0118	:	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, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to ANTONELLI TERRY STOUT AND KRAUS LLP has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
William D. Zeilke, et. al.	:	
Application No. 10/285,691	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0116	:	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, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to ANTONELLI TERRY STOUT AND KRAUS LLP has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

022006

FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

JAN - 7 2008

In re Application of:	:	
Brian D. Kuras	:	DECISION ON PETITION
Serial No.: 10/285,693	:	TO WITHDRAW OBJECTION TO
Filed: November 1, 2002	:	AMENDMENT OR ENTRY OF
Attorney Docket No.: 08350.1242	:	AMENDMENT AFTER FINAL

This is a decision on the petition, filed April 19, 2006, requesting withdrawal of the objection to amendment or entry of amendment after final.

The petition is **GRANTED**.

Petitioner asserts that the proposed amendment after final, submitted on February 21, 2006, cancels the portion of the amendment filed July 7, 2005 containing new matter.

A review of both of the amendments filed indicates that the amendment filed February 21, 2006, after final, made to the specification only cancels the new matter added by the amendment filed July 7, 2005.

The objection to the amendment filed on July 7, 2005 is withdrawn and the amendment is entered.

The amendment after final made under 37 CFR 1.312 on April 5, 2006 has been entered. The rejection to the specification made in the final office action mailed on October 10, 2005 has been withdrawn from the rejection made in the Examiner's Answer mailed on September 25, 2006. Since no changes are necessary to the Examiner's Answer regarding the entry of the amendment made after final on April 5, 2006, the application has been forwarded to the Board of Appeals.

Inquiries regarding this decision should be directed to Lincoln Donovan, Supervisory Patent Examiner, at (571) 272-1988.

Janice Falcone

Janice Falcone, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 6

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of
Vincent B. Ho, et al.
Application No. 10/285,702
Filed: November 1, 2002
Attorney Docket No. 268422000600

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 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 Nonprovisional Application mailed December 3, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $985 extension of time submitted with the petition on July 7, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 03-1952.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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OFFICE OF PETITIONS

In re Application of	:	
William D. Zielke et al	:	
Application No. 10/285,706	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0114	:	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, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and all the attorneys/agents of record associated with customer No. 020457 have been revoked by the assignee of the patent application on November 23, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 3624.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209

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OCT 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Jeff A. Wood et al	:	
Application No. 10/285,707	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0115	:	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, 2005.

The petition is **NOT APPROVED.**

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki, along with all of the other attorneys associated with the law firm of Antonelli, Terry, Stout & Kraus, LLP, has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. §1.36(b) is **moot.**

All future communications from the Office will be directed to the below-listed address of record until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 3692 for examination in due course.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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JUN 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Randal A. McCoy et al	:	
Application No. 10/285,708	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 3350-113J	:	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, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and all the attorneys/agents of record associated with customer No. 020457 have been revoked by the assignee of the patent application on November 23, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 3624.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ANTONELLI TERRY STOUT AND KRAUS LLP
1300 N 17TH ST STE 1800
ARLINGTON, VA 22209-3873

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter Moenickheim, et. al.	:	
Application No. 10/285,709	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 23952-0120	:	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, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney SUTHERLAND ASBILL AND BRENNAN LLP has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

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MAY 12 2005

OFFICE OF PETITIONS

In re Application of
Jean T. Edwards et al.
Application No. 10/285,715
Filed: November 1, 2002
Attorney Docket No. 285-133 PCT CON

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 2, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application no. 09/328,242 filed June 8, 1999 as set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be

> disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *Note* 37 CFR 1.121

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Paper No. 7

MARC E HANKIN ESQ
GORDON & REES LLP
SUITE 2075
300 S GRAND AVE
LOS ANGELES CA 90071

COPY MAILED
JUL 27 2004
OFFICE OF PETITIONS

In re Application of	:	
Michele Smith	:	
Application No. 10/285,718	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. MISM 1012021	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 30, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Corrected Application Papers, mailed December 6, 2002, which set an extendable period for reply of two months for applicant to file substitute drawings. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, no reply to the Notice to File Corrected Application Papers having been received, the above-identified application became abandoned on February 7, 2003. A Notice of Abandonment was mailed on June 18, 2004.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of substitute drawings, and made the 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 change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/20/09

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/285722 Patent No.: 7133162 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 (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Approved by C. Lee

Edward Coles — Digitally signed by Edward Coles DN: cn=Edward Coles, c=US, o=uspto, ou=2625, email=ecoles@uspto.gov Date: 2009.05.08 16:05:33 -04'00'

SPE

5/8/2009

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of :
Michael A. Evans, et al. :
Application No. 10/285,727 : ON PETITION
Filed: October 31, 2002 :
Attorney Docket No. 19744P-001030US :

This is a decision in response to the petition, filed July 17, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 8, 2005. A Notice of Abandonment was mailed on June 29, 2006. In response, on July 17, 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 $750.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 3734 for consideration of the amendment filed July 17, 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.:20060207

DATE : September 1, 2006

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 7,071,407 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
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:

Rexford Barnie
For

SPE: Matthew Smith **Art Unit** 2818

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060207

DATE : September 1, 2006

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 7,071,407 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
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:

Rexford Barnie
For

SPE: Matthew Smith **Art Unit** 2818

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET, SUITE A-1
GAINESVILLE, FL 32606-6669

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NOV 2 6 2003

OFFICE OF PETITIONS

In re Application of	:
Joachim Fruebis et al	:
Application No. 10/285,833	: DECISION GRANTING
Filed: November 1, 2002	:STATUS UNDER 37 CFR 1.47(a)
For: OBG3 GLOBULAR HEAD AND USES	:
THEREOF	:

This is in response to the petition under 37 CFR 1.47(a), filed July 7, 2003, and supplemented on August 18, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor (Frances Yen-Potin) has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

C mmissioner f r Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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FRANCES YEN-POTIN
11705 TONDINO CT.
SAN DIEGO, CA 92131

In re Application of
Joachim Fruebis; Mary Ruth Erickson; Frances Yen-Potin; Bernard Bihain
Application No. 10/285,833
Filed: November 1, 2002
For: OBG3 GLOBULAR HEAD AND USES THEREOF

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NOV 2 6 2003

OFFICE OF PETITIONS

Dear Ms Frances Yen-Potin:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Saliwanchik, Lloyd & Saliwanchik
A Professional Association
2421 N.W. 41st Street, Suite A-1
Gainesville, FL 32606-6669

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Commissioner for Patents
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Paper No.

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SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

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OFFICE OF PETITIONS

In re Application of	:	
Fruebis et al.	:	
Application No. 10/285,833	:	LETTER REGARDING
Filed: November 1, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. G-076US12CIP	:	

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed December 17, 2004, pursuant to applicants' duty of good faith and candor to the Office. Applicants disclose that the determination of patent term adjustment at the time of the mailing of the notice of allowance should be zero (0) days, not fifty-nine (59) days.

The request for correction of the initial determination of patent term adjustment (PTA) is ***granted to the extent indicated herein.*** The determination of PTA at the time of the mailing of the notice of allowance is ZERO (0) days (including 68 days of Office delay and 145 days of applicant delay).

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ZERO (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 29, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-

identified application. The Notice stated that the patent term adjustment to date is 59 days. Applicants disclose that the period of adjustment is 67 days, which was reduced by 9 days, but should have been further reduced by 126 days and 41 days respectively for delays in responding to the Notice to File Missing Parts mailed January 3, 2003 and in filing a supplemental response on August 18, 2003.

Applicants are correct that a period of reduction of 41 days is warranted for their filing of a supplemental response on August 18, 2003. See 1.704(c)(8). Moreover, pursuant to 1.704(b), a period of reduction is warranted, but for 95 days (not 126 days). Specifically, applicants filed a response to the Notice mailed January 3, 2003 on July 7, 2003. The period of reduction is 95 days, counting the number of days beginning on the day after the date that is three months after the date of mailing of the Notice, April 4, 2003, and ending on the date the reply was filed, July 7, 2003. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period. Thus, the total period of reduction for these 2 delays is 136 days.

However, applicants have not calculated the Office delay correctly. The period of adjustment for Office delay in mailing a first Office action is 68 days (not 67 days), counting the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), January 2, 2004 and ending on the date of mailing of either an action under 35 U.S.C. 132, March 9, 2004. See § 1.702(a) and § 1.703(a).

Further, applicants are incorrect in their conclusions that periods of reduction of 3 days and 12 days should have been entered in association with the Election filed April 12, 2004 and the Supplemental Information Disclosure Statement filed April 21, 2004. Regarding a 3-day reduction, as previously stated, the period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in § 1.704(b). The Election filed April 12, 2004 was filed within three months of the Restriction Requirement mailed March 9, 2004. Thus, entry of a reduction of 3 days, pursuant to 1.704(b), is not warranted, even though the Election was received outside of the period set forth in the Notice. Regarding a 12-day reduction, the basis stated by applicants is correct. However, the period of reduction of 9

days entered in the record is correct. The supplemental response was filed on April 21, 2004, 9 days after the filing of the initial response on April 12, 2004.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is ZERO (0) days (including a period of reduction of 145 days (91 + 45 + 9)).

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for issuance of the application.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 28, 2007

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No. 10/285833 patent no.6989367

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: _____

Manjunath

SPE (MANJUNATH RAO) 1647 **Art Unit**

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT 06 2006

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Michael A. Evans et al	:	
Application No. 10/285,843	:	DECISION GRANTING PETITION
Filed: October 31, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 19744P-001040US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of December 2, 2005, 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 3734.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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LARSON NEWMAN ABEL POLANSKY & WHITE LLP
5914 WEST COURTYARD DRIVE, SUITE 200
AUSTIN, TX 78730

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OFFICE OF PETITIONS

In re Application of	:	
Sankar N. Raman et al	:	
Application No. 10/285,860	:	DECISION GRANTING PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1458.TT5207	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before February 14, 2006, as required by the Notice of Allowance and Fee(s) Due mailed November 14, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $1,400 issue fee; (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael J. Turgeon
VEDDER PRICE KAUFMAN & KAMMHOLZ
24TH FLOOR
222 N. LASALLE STREET
CHICAGO IL 60601

COPY MAILED
DEC 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Gotthilf Weniger	:	
Application No. 10/285,873	:	DECISION ON PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.137(b)
Title of Invention: Breast Pump Assembly	:	
	:	

This is in response to the petition filed under 37 CFR 1.137(b) filed on July 5, 2006.

Petitioner seeks to revive the above-identified application.

The petition filed under 37 CFR 1.137(b) is **DISMISSED**.

A review of the petition submitted shows that the petition was not signed by a proper party of interest. All correspondence concerning this application must be signed by: 1) all named applicants (inventors), 2) all the owners of the rights to the invention, or 3) a registered attorney or agent duly appointed by the inventor(s) or the owner(s).

Although the petition has been executed by a registered attorney, a review of the record shows that the attorney was not appointed by the inventor(s) or owners of this patent application . Thus, neither Michael H. Baniak nor Allison M. Dudley have demonstrated proof of authority to act in a representative capacity pursuant to 37 CFR 1.34.

The merits of the petition have **not** been reviewed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

cc: Michael H. Baniak
Baniak, Pine & Gannon
150 Wacker Drive, Suite 1200
Chicago, Illinois 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 03 2008

OFFICE OF PETITIONS

In re Application of
Gotthilf Weniger
Application No. 10/285,873
Filed: November 1, 2002
Title of Invention: Breast Pump Assembly

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is in response to the renewed petition filed under 37 CFR 1.137(b) filed on October 12, 2007.[1]

Petitioner seeks to revive the above-identified application.

The petition filed under 37 CFR 1.137(b) is **DISMISSED**.

On renewed petition, petitioner insists Brian H. Silver is the true inventor of the above-identified application. Petitioner states that applicant Weniger and Silver were both employees of Medela inc. Applicant Weniger no longer employed by Medela, filed this application. Petitioner contends that Weniger had a legal obligation to assign all inventions he made in the course of his employment to Medela. Petitioner also acknowledges there is no written contract, but cites to Illinois law that holds an employee in the position of Weniger must assign all inventions relating to the business of his employment to the employer. Petitioner also points to the fact that Weniger did assign other inventions to Medela during his employment.

It should be noted that this application was not filed by Brian Silver, nor was it filed by Medela, inc.

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[1]It is noted that the petition decision mailed to petitioner was returned to the Office on January 10, 2007

35 USC 256 states applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

The provisions of 37 CFR 3.71(b)(1) and (2) identify the owner or assignee that can take action in patent matters, e.g., the assignee which may conduct the prosecution of a U.S. national application for a patent (35 U.S.C. 111(a)), or any other patent proceeding (e.g., a reexamination proceeding, an interference proceeding). A national patent application is owned by one of the following individual or composite entities:
(A) the inventor(s);
(B) an assignee or multiple assignees of the inventor(s); or
(C) some combination of the assignee(s), and inventor(s) who have not assigned away their right, title and interest in the application.

Pursuant to 37 CFR 3.73(b), a party must be established as the assignee by satisfying the requirements of that subsection, in order to be recognized as an owner or part owner, for purposes of taking action in patent matters before the Office.

If there is no assignee of the entire right, title and interest of the patent application, then two possibilities exist:
(A) The application has not been assigned, and ownership resides solely in the inventor(s) (i.e., the applicant(s)). In this situation, 37 CFR 3.71 does not apply, since there is no assignee, and the combination of all inventors is needed to conduct the prosecution of an application.... MPEP 324.

A review of the petition submitted shows that the petition was not signed by a proper party of interest. All correspondence concerning this application must be signed by: 1) all named applicants (inventors), 2) all the owners of the rights to the invention, or 3) a registered attorney or agent duly appointed by the inventor(s) or the owner(s).

Although the petition has been executed by a registered attorney, a review of the record shows that the attorney was not appointed by the inventor(s) or owners of this patent application . Thus, neither Michael H. Baniak nor Allison M. Dudley have demonstrated proof of authority to act in a representative capacity pursuant to 37 CFR 1.34.

The evidence provided on renewed petition, has not persuaded the Office that petitioner is a proper party.

The merits of the petition have **not** been reviewed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

cc: Michael H. Baniak
McDonnell Boehnen Hulbert & Berghoff LLP
300 Wacker Drive
Chicago, Illinois 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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222 N. LASALLE STREET
CHICAGO IL 60601

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Gotthilf Weniger :
Application No. 10/285,873 : ON PETITION
Filed: November 1, 2002 :
Attorney Docket No. 34310.00.0004 :

This is a decision on the "Petition Under 37 CFR §§ 1.182 and 1.183" to control the prosecution and have the merits of the previously submitted petition under 37 CFR 1.137(b) addressed for the above identified application.

Gotthilf Weniger filed the above-identified application on November 1, 2002. A declaration pursuant to 37 CFR 1.63 was filed identifying Weniger as the sole inventor. The declaration also authorized power of attorney to attorneys at the firm of Vedder, Price, Kaufman & Kammholz.

Petitioner Medela, Inc. contends that they are the true party of interest for the above application. Medela, inc. states that the true inventor of the application is Brian H. Silver an employee of Medela, Inc. Petitioner contends that Weniger, a former employee of Medela, inc did not invent the subject matter at issue. Further petitioner contends that Weniger had a legal obligation to assign all inventions made in the course of his employment. Petitioner acknowledges that no written contractual agreement requiring Weniger to assign inventions exists, but maintains that Illinois law holds that an employee in the position of Weinger must assign all inventions relating to the business of his employment to the employer.

STATUTE AND REGULATION

35 U.S.C. § 152 states that:

> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided for in this title.

35 U.S.C. § 261 states in pertinent part:

> Subject to the provisions of this title, patents shall have the attributes of personal property. Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like

manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

37 CFR 1.182 states:

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each case by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 CFR 1.183 states:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 CFR 3.1 states in pertinent part:

For purposes of this part, the following definitions shall apply:
Assignment means a transfer by a party of all or part of its right, title and interest in a patent or patent application...(emphasis in original)

37 CFR 3.21 states in pertinent part:

An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, e.g., 07/123,456).

37 CFR 3.54 states:

The recording of a document pursuant to § 3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title to application, a patent, or a registration. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office.

37 CFR 3.71 provides that:

(a) Patents — conducting of prosecution. One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding to the exclusion of either the inventive entity, or the assignee(s) previously entitled to conduct prosecution.
(b) Patents — Assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:

(1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
(2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee

of record having less than the entire right, title and interest in the application or patent being reexamined.

(c) Patents — Becoming of record. An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

37 CFR 3.73 provides that:

(a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application unless there is an assignment.

(b) When an assignee seeks to take action in a matter before the Office with respect to a patent application, trademark application, patent, registration, or reexamination proceeding, the assignee must establish its ownership of the property to the satisfaction of the Director. 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 or by specifying (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. The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. 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

Under 37 CFR 3.71, the assignee of the *entire interest* may prosecute (or defer prosecution of) an application to the exclusion of the named inventors, 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), that putative assignee must present its showing consonant with 37 CFR 3.71 to the Office, either prior to, or concurrently with, the paper that requests the action. Accordingly, Medela, Inc. or Brian Silver must establish that it is the current owner of the entire interest to the exclusion of the other, as the owner–or even the equitable 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).

While petitioner contends that the instant invention was made during the time the inventor was employed by Medela, such that Medela is the assignee of the entire interest herein, 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. 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).

Indeed, 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). 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 petitioner simply by inspection of the documents upon which petitioner relies. 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). In this instance, the party that filed the present application is Gotthilf Weniger. It is this entity that has the right to prosecute this application.

The petition seeking that the USPTO acknowledge that Medela, Inc is the assignee of the entire interest, and, in turn, that Medela as the assignee of the entire interest may prosecute the application within the meaning of MPEP 324 and 37 CFR 3.73(b) must be **DISMISSED**.

It follows that petitioner has failed to establish its ownership of this application within the meaning of 37 CFR 3.73(b) and MPEP § 324. As such, and further in view of the fact that Brian Silver is not a named inventor in this application, petitioner must regarded as a third party with respect to this patent application, and the requested relief cannot be granted.

The PTO will take no further action on the issue of ownership and control until such time as a court of competent jurisdiction rules on this matter.

For the reasons noted above, petitioner must be regarded as a third party with respect to this application. A mere assertion of a right to have the Office act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988). Further, a third party does not have standing to challenge Office decisions made *ex parte*. See, e.g., Godtfredsen v. Banner, 503 F.Supp 642, 647, 207 USPQ 202, 207 (D.D.C. 1980), Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 1574-1575, 11 USPQ2d 1866, 1870 (Fed. Cir. 1989), Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920 (Fed. Cir. 1989). There is nothing in the patent statutes which gives rise to a right in nonapplicants to object to the way in which patent applications of others are treated by the Patent and Trademark Office. A third party has no right to intervene in a particular patent application. Animal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 (Fed. Cir. 1991); Hallmark Cards, Inc. v. Lehman, 959 F. Supp. 539, 42 USPQ2d 1134 (D.D.C. 1997).

For the reasons noted above, the third party request to take action in this application is dismissed as third party petitioner has failed to adequately establish its right within the meaning of 37 CFR 3.71(b)(1) and 3.73(b) to take action herein.

Telephone inquiries regarding this communication should be directed to Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

Cc: McDonnell Boehnen Hulbert & Berghoff LLP
300 S. Wacker Drive
Chicago, Illinois 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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SALT LAKE CITY, UT 84110

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OFFICE OF PETITIONS

In re Application of Brad D. Rumsey et al Application No. 10/285,881 Filed: October 31, 2002 Attorney Docket No. 4331.3US(99-1002.03/US	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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ADAMS EVANS P.A.
2180 TWO WACHOVIA CENTER
301 SOUTH TRYON STREET
CHARLOTTE, NC 28282

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FEB 08 2006
OFFICE OF PETITIONS

In re Application of	:	
Robert Proctor, et. al.	:	
Application No. 10/285,891	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 13DV-14137	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 16, 2005, 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 June 27, 2005. A Notice of Abandonment was mailed on November 10, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

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FEB 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Deepak Massand	:	
Application No. 10/285,910	:	DECISION ON PETITION
Filed: October 31, 2002	:	PURSUANT TO
Attorney Docket No.: 50158/3	:	37 C.F.R. § 1.137(B)
Title: COLLABORATIVE DOCUMENT	:	
DEVELOPMENT AND REVIEW SYSTEM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)[1], filed on November 5, 2007, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed December 27, 2006, which set an extendable period for reply of one month. No further responses were received. Accordingly, the above-identified application became abandoned on January 28, 2007.

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1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

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 filed concurrently with this petition on November 5, 2007 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No.

Pepper Hamilton LLP/Wyeth
500 Grant Street
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Pittsburgh PA 15219-2502

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SEP 04 2007

OFFICE OF PETITIONS

In re Application No. 10/285,940	:	
Sandanayaka et al.	:	DECISION ON REQUEST
Filed: November 1, 2002	:	FOR
Title: ALLENIC ARYL SULFONAMIDE	:	RECONSIDERATION OF
HYDROXAMIC ACIDS AS MATRIX	:	PATENT TERM ADJUSTMENT
METALLOPROTEINASE AND TACE	:	
INHIBITORS	:	

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT," filed June 21, 2007. Patentees request that the patent term adjustment indicated in the patent be corrected from three hundred and fifty-eight (358) days to *at least* five hundred and seven (507) days.

Since the patent has not yet issued, Petitioner has requested that the petition be held in abeyance until the issue date is determined.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being held in abeyance until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). Thus, this period of adjustment is reflected in the revised patent term adjustment indicated on the patent.

Patentee is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

However, 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 that 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), 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-8-09

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/285968 Patent No.: 6849530

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: check claims

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 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

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 proposed changes do not have any effect on the scope of the claims

SPE

3746
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Arthur G. Ryman	: DECISION ON REQUEST FOR
Patent Number	: 7587447	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/285,991	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1980** 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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Brian C. Kelly
Hawkins, Folsom & Muir
Suite 416
One East Liberty St.
Reno, NV 89501

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Gustafson, et al. : DECISION ON PETITION
Application No. 10/286,003 :
Filed: October 31, 2002 :
For: HANGER ATTACHMENT :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 3, 2004 for failure to timely submit a proper reply to the non-final Office action mailed September 2, 2003. The non-final Office action set a three (3) month shortened statutory period of time for reply. A three month extension of time in accordance with 37 C.F.R. § 1.136 was timely requested. Notice of Abandonment was mailed May 3, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

CHAPIN INTELLECTUAL
PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

In re Application of	:	
Rogers, et al.	:	
Application No. 10/286,013	:	DECISION
Filed: 1 November, 2002	:	
Attorney Docket No. AVA06-07/504109-A-01-US	:	

This is a decision on the petition, filed on 23 September, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the final Office action mailed on 29 June, 2007, with reply due absent an extension of time on or before 29 September, 2007.

On 11 October, 2007, Petitioner submitted (with a request and fee for extension of time) an amendment after final, which the Examiner refused to enter and Petitioner—as one registered to

practice before the Office—knows is not as of right and not a proper reply if it does not *prima facie* place the application in condition for allowance, and on 17 October, 2007, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 29 October, 2007.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 23 September, 2008, Petitioner filed the instant petition with fee, a reply in the form of request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an 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.

Application No. 10/286,013

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The Power of Attorney submitted on 16 June, 2008, appears already to have been entered.

The instant application is released to Technology Center/AU (TC/AU) 2416 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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FEB 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey S. Barrall et al	:	
Application No. 10/286,015	:	DECISION GRANTING PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2337/104	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 26, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2165 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B -- Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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BOX 8013
ST. LOUIS, MO 63110

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of	:
Schotland, et al.	: DECISION ON PETITION
Application No. 10/286,019	:
Filed: November 1, 2002	:
Docket No.: Schotland-WU4	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 27, 2005.

This application was held abandoned May 2, 2005 for failure to timely submit a proper reply to the restriction requirement mailed December 1, 2004. Notice of Abandonment was mailed September 29, 2005.

Petitioners assert that a response to a restriction requirement and a petition for extension of time were timely submitted on April 12, 2005, and has submitted as proof of USPTO receipt of the reply a return postcard dated stamped April 14, 2005.

The original amendment submitted April 14, 2005 has not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2800 for further processing.

There is no indication that practitioner herein was ever empowered to prosecute the instant application. If practitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to practitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The requested revocation of power of attorney/appointment of new power of attorney and/or change of correspondence address submitted January

9, 2006 has not been entered into the record as the document has not been executed by one whose authority to act on behalf of the assignee.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: THOMPSON COBURN LLP
ONE U.S. BANK PLAZA
ST. LOUIS, MO 63110

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080623

DATE : June 23, 2008

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 7274741 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The Request for Certificate of Correction is approved because it does not affect the scope of the invention.

/Gims Philippe/

SPE: /Mehrdad Dastouri/ Art Unit 2621

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Paper No. 8

JAN 14 2004

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

In re Application of	:	
Howard L. Honig et al.	:	NOTICE OF WITHDRAWAL
Application No. 10/286,061	:	FROM ISSUE
Filed: October 31, 2002	:	UNDER 37 C.F.R. § 1.313(b)
Attorney Docket No. 100202998-1	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. § 1.313(b)(3).

The above-identified is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed November 3, 2003 are hereby vacated.

The issue fee is refundable upon 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 and Issue Fee Due in order to prevent abandonment of the application.

Telephone inquiries should be directed to Russ Adams, Supervisory Patent Examiner, at (703) 308-2847.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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The Procter & Gamble Company
Intellectual Property Division
Winton Hill Technical Center – Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

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MAR 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter J. Malton, et al.	:	
Application No. 10/286,076	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. CM2323C	:	

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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) 1.

A non-final Office action was mailed to applicant on March 2, 2004, which set a three (3) month shortened statutory period for reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on June 3, 2004.

Petitioner has not provided a reply to the outstanding office action. The application cannot be revived until such a reply is received.

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 **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Winton Hill Technical Center – Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Peter J. Malton, et al.	:	
Application No. 10/286,076	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. CM2323C	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to a non-final Office action.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1700.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BROUSE MCDOWELL
388 SOUTH MAIN STREET
SUITE 500
AKRON, OH 44311-4407

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Nancy E. Weigand	:	
Application No. 10/286,091	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. 31195,30005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2005, to revive the above-identified application.

In response to the non-final Office action mailed April 8, 2004, petitioner hereby submits an authorization to charge $750 for the petition to revive fee, an amendment, and the statement of unintentional delay.

As authorized, the above fee has been charged to petitioner's deposit account.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 3673, 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
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

MANUEL YNOSENCIO
P.O. BOX 9616
AUSTIN TX 78766

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MAR 1 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Manuel Ynosencio :
Application No. 10/286,094 :
Filed: 1 November, 2002 :
For: Multiple Axis Continuous Hinge :
System :

This is a decision on the petition filed on 21 November, 2003, which, in the absence of a fee, is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.[1]

The 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 to under 37 CFR 1.137(b)." This is not a final agency action.

This application became abandoned on 4 February, 2003, for failure to submit a proper response to the Notice to File Corrected Application Papers mailed on 3 December, 2002, which set a two (2) month shortened period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner states that the Notice mailed on 3 December, 2002, was never received.

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of

[1] In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The petition should include sufficient data describing the procedures and controls utilized by the addressee when correspondence is received from the Patent and Trademark Office. If possible, the addressee should also point out how these procedures and controls were followed in the situation at hand.

The showing of record is not sufficient to withdraw the holding of abandonment.

A review of the written record indicates no irregularity in the mailing of the aforementioned Office communication, and, in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner has provided no evidence that the Notice mailed on 3 December, 2002, was not received. As such, the holding of abandonment cannot be withdrawn.

REQUIRED REPLY

Petitioner has not submitted the replacement drawings required by the Notice mailed on 3 December, 2002. In order for the application to be revived as described below, the required reply to the Notice must be submitted with any petition to revive.

ALTERNATE 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 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)).

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).

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: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/64
Fee Schedule FY04
Privacy Act Notification

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

MANUEL YNOSENCIO
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In re Application of :
Manuel Ynosencio :
Application No. 10/286,094 : ON PETITION
Filed: 1 November, 2002 :
For: Multiple Axis Continuous Hinge :
System :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 19 May, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 4 February, 2003, for failure to submit a proper response to the Notice to File Corrected Application Papers mailed on 3 December, 2002, which set a two (2) month shortened period for reply. The filing of

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

the present petition precedes the mailing of Notice of Abandonment. The petition to withdraw the holding of abandonment filed on 21 November, 2003, was dismissed on 10 March, 2004.

The application is being forwarded to the Office of Initial Patent Examination for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

10/286,105

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-6-05

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: E Young

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.

Can this be Approved
Thank You For Your Assistance

Ennis Young
Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

SPE

1623
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/286,115	11/01/2002	Michael J. Gormish	074451.P141	3431

7590 11/30/2009

Michael J. Mallie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER
DANG, DUY M

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
11/30/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Michael J. Mallie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

MAIL

NOV 28 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Michael J. Gormish :
Serial No.: 10/286,115 :
Filed: November 1, 2002 :
For: ERROR CONCEALMENT USING ICONS FOR :
JPEG AND JPEG 2000 COMPRESSED IMAGES :

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed September 14, 2009 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1, 8, 9, and 10 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Michael J. Mallie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Mail Date: 04/21/2010

Applicant	: Michael J. Gormish	: DECISION ON REQUEST FOR
Patent Number	: 7660473	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/286,115	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1106** 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

FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis MN 55440-1022

MAILED

JUL 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,476,383	:	
Zhou, et al.	:	DECISION ON
Issue Date: January 13, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/286,132	:	OF
Filed: October 31, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 20674-029US1	:	

This is a decision on the "**APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)**," filed March 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred seventy-one (571) days to eight hundred ninety-three (893) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On January 13, 2009, the above-identified application matured into U.S. Patent No. 7,476,383 with a patent term adjustment of 571 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). 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 pursuant to *Wyeth*, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees request recalculation of the patent term adjustment to include a 473 day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 340 days(from January 1, 2004 to

November 18, 2005)and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 696 days (from November 1, 2005 to November 18, 2005). Patentees argue that only 18 days, November 1, 2005 to November 18, 2005, overlap.

The 340 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on October 31, 2002, and a request for continued examination (RCE) having been filed in this application on October 6, 2006, three years and 340 days later. Patentees assert that in addition to this 340 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), totalling 696 days. This 696 day period is the sum of:

- a period of delay of 688 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1);
- a period of delay of 8 days for the failure by the Office to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied, pursuant to § 1.702(a)(4);

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 125 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (340 days) and the period of Examination Delay (696 days) to the extent that these periods of delay are not overlapping.

Patentees contend that 18 days of the period of delay of 696 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (January 1,

2004 to November 18, 2005) overlaps with the Three Year Delay period (November 1, 2005 to October 6, 2006). Patentees assert that this overlapping period is the 18 days running from November 1, 2005 to November 18, 2005.

Accordingly, patentees submit that the total period of Office Delay is 1018 days, which is the sum of the period of Three Year Delay (340 days) and the period of Examination Delay (696 days), reduced by the period of overlap (18 days).

As such, patentees assert entitlement to a patent term adjustment of 893 days (340 +696 reduced by 18 overlap -125 for applicant delay).

The Office agrees that as of the filing of the RCE on October 6, 2006, the application was pending 3 years and 340 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the entry of a period of adjustment of 696 days is correct. At issue is whether patentees should accrue 332 days (adjusted for overlap, per patentees' definition of overlap) of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 696 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 340 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has

consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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 from the application's filing date, October 31, 2002, to the filing date of the RCE, October 6, 2006. 696 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. All of the 340 days for Office delay in issuing the patent overlap with the 696 days of Office delay. During that time, the issuance of the patent was delayed by 696 days, not 696 + 340 days. The Office took 14 months and 688 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 696 days of Office delay and the 125 days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing date of the RCE, the application was pending three years and 340 days. The Office did not delay 696 days and then an additional 340 days. Accordingly, 696 days of patent term adjustment was properly entered since the period of delay of 340 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 696 days attributable to grounds specified in § 1.702(a)(1) and § 1.702(a)(4). Entry of both periods is not warranted. 696 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 340 days over three years to the filing of the RCE.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis MN 55440-1022

MAILED
APR 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,476,383	:	DECISION ON REQUEST
Zhou, et al.	:	FOR
Issued: January 13, 2009	:	RECONSIDERATION OF
Application No. 10/286,132	:	PATENT TERM ADJUSTMENT
Filed: October 31, 2002	:	AND
Atty Docket No. 20674-029US1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on August 5, 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 eight hundred ninety-three (893) 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 eight hundred ninety-three (893) 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 November 1, 2005 and ends on October 5, 2006, the day before the RCE was filed, and is 339 (not 340) days. *See* 35 U.S.C. 154(b)(1)(B)(i). Taking the 18 days of overlap into consideration, the patent term adjustment is 892, not 893 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 an assignee or a 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 37 CFR 1.136.

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 eight hundred ninety-two (892)** days.

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 fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: TINA WILLIAMS MCKEON
1180 PEACHTREE ST., N.W., 21ST FL.
ATLANTA, GA 30309

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,476,383 B2

DATED : January 13, 2009

INVENTOR(S) : Tong Zhou, 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 (571) days

Delete the phrase "by 571 days" and insert – by 892 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081013

DATE : December 3, 2008

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction on Patent No.: 7130194

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: /Dean A. Reichard/ Art Unit 2841

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-12-07

TO SPE OF : Technology Center 3729 10/286156

SUBJECT : Request for Certificate of Correction on Patent No.: 7013559 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed..

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

Art Unit

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

UR
PAPER NO. 8

JUN 3 2003

In re Application of	:	
Leslie L. Anderson et al.	:	DECISION
Serial No. 10/286,176	:	ON
Filed: November 01, 2002	:	PETITION
For: RADIANT AND CONVECTIVE HEAT	:	UNDER 708.02
RESISTANT MATERIALS AND	:	&
EMERGENCY FIRE SHELTER MADE	:	37 CFR 1.102(b)
THEREFROM	:	

This is in response to the petition filed November 01, 2002 requesting that the above-identified application be granted Special Status under Section 708.02 of the MPEP and 37 CFR 1.102(b) (fee authorized).

The petition has been considered as a request and found to to comply with the requirements set forth under the above-noted section. The fee authorized by the applicant is not required. Accordingly, the request is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Janet I. Stockhausen
USDA Forest Service
One Gifford Pinchot
Madison,WI 53705

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 5

LERNER DAVID LITTENBERG KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

COPY MAILED

MAY 29 2003

OFFICE OF PETITIONS

In re Application of	:	
David S. Weck et al	:	
Application No. 10/286,178	:	NOTICE
Filed: October 31, 2002	:	
Attorney Docket No. DWFITN 3.0-001	:	
CIP CIP DIV	:	

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 3764.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 5

William D. Jackson, Esq.
Locke Liddell & Sapp, LLP
2200 Ross Ave., Ste. 2200
Dallas, TX 75201

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SEP 1 0 2003

OFFICE OF PETITIONS

In re Application of
Atwood et al.
Application No. 10/286,179
Filed: October 31, 2002
Attorney Docket No. 91550/84045

ON PETITION

This is a decision on the petition under 37 C.F.R. § 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 to the Notice to File Missing Parts of Application (Notice) mailed December 3, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 2003.

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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TRASKBRITT
P O BOX 2550
SALT LAKE CITY, UT 84110-2550

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MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of Brad D. Rumsey et al Application No. 10/286,181 Filed: October 31, 2002 Attorney Docket No. 2269-4331.1US (99-1002.01/US)	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed May 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 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) 272-3218.

This matter is being referred to Technology Center AU 3729 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\may9\286181.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patrick Scanlon
Pierce Atwood
One Monument Square
Portland, ME 04101

COPY MAILED

OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Rudi Oskar Krenz	:	
Application No. 10/286,184	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. 13DV-14201	:	

This is a decision on the petition, filed by facsimile transmission on August 13, 2004, to correct the assignee and attorney data on Form PTOL-85(b).

In the instant petition, petitioner states that a check in the amount of $130 is enclosed. However, no check was received since the instant petition was submitted via facsimile transmission. Therefore, per authorization given in the instant petition, $130 has been charged to petitioner's deposit account.

The petition is **granted**.

The requested data will be printed on the patent if this can be accomplished without substantial disruption to the issue process. However, if the printing of the patent has progressed to the point where the requested data cannot be included in the printed patent, petitioner can request a Certificate of Correction under 37 CFR 1.322.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
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

GOWLING LAFLEUR HENDERSON LLP
SUITE 1600, 1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO ON M5X 1G5 CA CANADA

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of
Shultz et al.
Application No. 10/286,187
Filed: November 1, 2002
Attorney Docket Number: 59208.00004

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of January 9, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 10, 2007. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2164 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAY 17 2010

OFFICE OF PETITIONS

GOWLING LAFLEUR HENDERSON LLP
SUITE 1600 1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO ON M5X 1G5 CA CANADA

In re Application of	:	
Shultz, et al.	:	
Application No. 10/286,187	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. 59208.00004	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed March 17, 2010.

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 24, 2008, which set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on April 2, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal.

Please be advised that the two month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application is being forwarded to Group Art Unit 2164 to await applicants' submission of the Appeal Brief.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GOWLING LAFLEUR HENDERSON LLP
SUITE 1600 1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO ON M5X 1G5 CA CANADA

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Shultz, et al.	:	CORRECTED DECISION
Application No. 10/286,187	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. 59208.00004	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed March 17, 2010.

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 24, 2008, which set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on April 2, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of continuation application No. 12/725,947.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above identified application is again abandoned in favor of the continuation application, no. 12/725,947, filed March 17, 2010.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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OCT 2 6 2006
OFFICE OF PETITIONS

BLACKWELL SANDERS PEPER MARTIN, LLP
1620 DODGE STREET
SUITE 2100
OMAHA NE 68102

In re Application of	:	
Tyran Adams	:	
Application No. 10/286,188	:	DECISION ON PETITION
Filed: November 1, 2002	:	TO WITHDRAW
Attorney Docket No. 57078.4	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David H. Milligan on behalf of all attorneys/agents of record who are associated with customer No. 61270.

All attorneys/agents associated with the Customer Number 61270 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Tyran Adams
5445 South 22nd Street
Omah, NE 68107

cc: Adam Jacobs
1904 Farnam St.
Ste. 726
Omaha, NE 68102

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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/286,188	11/01/2002	Tyran Adams	

CONFIRMATION NO. 3084

OC000000020980410

61270
BLACKWELL SANDERS PEPER MARTIN, LLP
1620 DODGE STREET
SUITE 2100
OMAHA, NE 68102

Date Mailed: 10/26/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/17/2006.

- 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.

DAVID A BUCCI
OP (571) 272-7099

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADAM H. JACOBS
LAW OFFICE OF ADAM H. JACOBS
1904 FARNAM STREET, SUITE 726
OMAHA, NE 68102

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APR 30 2009
OFFICE OF PETITIONS

In re Application of	:	
Tyran Adams	:	DECISION ON PETITION
Application No. 10/286,188	:	TO WITHDRAW
Filed: November 1, 2002	:	FROM RECORD
Attorney Docket No.	:	

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 5, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on May 19, 2006 the power of attorney to the Law Offices of Adam H. Jacobs was revoked by the applicant 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: Tyran Adams
5445 South 22nd Street
Omaha NE 68107

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/25/09

TO SPE OF : ART UNIT 3644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10286192 Patent No.: 6742745 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: Approved

/Michael Mansen/ — SPE

3644 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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SEP 26 2003

TECHNOLOGY CENTER 2100

Paper No. 5

Joseph P. Curtin
1469 N.W. Morgan Lane
Portland, OR 97229

In re Application of: Windsor W.S. HSU, et al.	)	
Application No. 10/286,197	)	
Filed: November 1, 2002	)	
For: METHOD AND MEANS FOR TOLERATING MULTIPLE DEPENDENT OR ARBITRARY DOUBLE DISK FAILURES IN A DISK	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed August 25, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: IBM Research Division
Almaden Research Center
650 Harry Road
San Jose, CA 95120-6099

UNITED STATES PATENT AND TRADEMARK OFFICE

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Schwabe, Williamson & Wyatt, P.C.
Pachwest Center, Suite 1900
1211 SW Fifth Avenue
Portland OR 97204

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MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Sasaki et al.	:	
Application No. 10/286,205	:	DECISION DISMISSING PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AVERY-66270	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 10/172,282, filed July 14, 2002.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment submitted concurrently with the petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). 37 CFR 1.121(a) states that amendments in applications are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in

a separate paper because different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the petition is **DISMISSED.**

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and an amendment[1] or an Application Data Sheet, containing a reference to the prior-filed nonprovisional application 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 decision may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* 37 CFR 1.121 and 37 CFR 1.4(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Schwabe, Williamson & Wyatt, P.C.
Pachwest Center, Suite 1900
1211 SW Fifth Avenue
Portland OR 97204

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OCT 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Sasaki et al.	:	
Application No. 10/286,205	:	DECISION GRANTING PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AVERY-66270	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 10/172,282, filed July 14, 2002.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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 prior-filed nonprovisional Application No. 10/172,282 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 an appropriate 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. 10/172,282, filed July 14, 2002, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned. 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 2853 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/286,205	11/01/2002	1775	3048	114773-146734	14	141	2

CONFIRMATION NO. 3217

CORRECTED FILING RECEIPT

OC000000020926520

0025943
SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Date Mailed: 10/20/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Yukihiko Sasaki, Claremont, CA;
Xiao-Ming He, Arcadia, CA;

Assignment For Published Patent Application

Avery Dennison Corporation

Power of Attorney: The patent practitioners associated with Customer Number **0025943**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/172,282 06/14/2002 PAT 6,811,815

Foreign Applications

If Required, Foreign Filing License Granted: 12/03/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/286,205

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Transparent conductive film for flat panel displays

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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P.O. Box 1450
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OLIVER STRIMPEL, PATENT COUNSEL
AVID TECHNOLOGY, INC.
ONE PARK WEST
TEWKSBURY MA 01876

COPY MAILED
JAN 26 2010

In re Application of	:	
Wallace et al.	:	
Application No. 10/286,215	:	DECISION ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. A2002007	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 2, 2009, 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 May 3, 2009. A Notice of Abandonment was mailed November 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $1,620.00 and (3) a proper statement of unintentional delay.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-7751.

This application is being referred to Technology Center AU 2471 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,654,158	2003-11-25	10286226	2002-11-01	MVIS 98-09 C2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin D. Wills/	Date (YYYY-MM-DD)	2007-12-24
Name	Kevin D. Wills	Registration Number	43993

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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P.O. Box 1450
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In re Patent No. 6654158
Issue Date: November 25,2003
Application No. 10286226
Filed: November 1,2002
Attorney Docket No. MVIS 98-09 C2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 24,2007 ,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 24,2007. 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, DC 20231
www.uspto.gov

In re Application:	Lee et al.	:	DECISION GRANTING THE PETITION
Serial Number:	10/286,240	:	FILED October 31, 2002 UNDER 37 C.F.R.
Filing Date:	October 31, 2002	:	1.84

This decision is in response to the petition filed October 31, 2002 in the above identified application. Petitioner requests that color drawings be accepted in accordance with 37 C.F.R. 1.84.

The petition states that color drawings are necessary in order to completely and accurately represent the invention.

The petition complies with 37 C.F.R. 1.84 in that it was accompanied by the appropriate fee, and there was provided three sets of the color drawings (filed June 20, 2003). Further, the specification includes the required language set forth in 37 C.F.R. 1.84.

The papers filed October 31, 2002 and June 20, 2003 fulfill the requirements set forth in 37 C.F.R. 1.84. Accordingly, the petition is therefore GRANTED.

Andrew Hirshfeld
Supervisory Patent Examiner, AU 2854
Technology Center 2800

Keith D. Gehr
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OCT 19 2005

Director's Office
Group 3700

John A. Chionchio, Esquire
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Paper No. 11

In re Application of
LAUTER ET AL.
Appl No.: 10/286,280
Filed: November 01, 2002

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed February 10, 2004 for failure to timely pay the issue fee due January 2, 2004 required by the Notice of Allowance, mailed October 1, 2003. In view of the statements in the letter received March 1, 2004 alleging non-receipt, the submission is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. No fee is required for this petition.

The petition is granted.

In support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA.

In view of the above, the Notice of Abandonment mailed February 10, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. The Notice of Allowance will be remailed and the statutory period that was originally set forth in the Office communication will be restarted to run from the mail date of the newly supplied Notice of Allowance.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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.
10/286,280	11/01/2002	Robert Lauter	25514-A USA	5060

7590 11/18/2009

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EXAMINER
KOKABI, AZADEH

ART UNIT	PAPER NUMBER
3751	

MAIL DATE	DELIVERY MODE
11/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

George S. Bardmesser
BARDMESSER LAW GROUP, P.C.
1025 CONNECTICUT AVENUE, N.W.
SUITE 1000
WASHINGTON DC 20006

In re Application of: BELOUSSOV, S.M. et. al.
Application No. **10/826,280**
Filed: April 19, 2004
Atty. Docket No: 2230.0050000/MBR/GSB
For: DEDICATION OF ADMINISTRATIVE SERVERS TO MANAGEMENT OF SERVERS TO MANAGEMENT OF SERVER FUNCTIONS IN A MULTI-SERVER ENVIRONMENT

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition under 37 CFR § 1.181, filed on September 02, 2009 to invoke the Supervisory Authority of the Commissioner to review the sufficiency and propriety of the Declarations submitted in this patent application under 37 C.F.R. §1.131. The petition seeks review of Examiner's misunderstanding of the law and USPTO practice on (1) establishing the date of conception of the invention; (2) diligence in constructive reduction to practice, in the context of a Declaration under 37 C.F.R. §1.131.

Specifically, Petitioner issues with respect to Examiner's misunderstanding of the law and USPTO practice on the above mentioned issues, will be treated as a petition to the Director under 37 CFR § 1.181 to seek relief from actions or requirement of the Examiner in relation to the Declaration submitted under 37 C.F.R. §1.131. Specifically, a review of the following issues: (A) Whether the declaration under 37 C.F.R. §1.131 by inventors Serguei Beloussov, et. al. is *sufficient to establish conception of the invention prior to the effective dates of the references*; and (B) Whether the declaration under 37 C.F.R. §1.131 by Applicant's attorneys at the law firm Sterne Kessler Goldstein Fox is *sufficient to establish diligence in constructive reduction to practice.*

The petition is **DISMISSED AS MOOT.**

STATUTES, RULES AND PROCEDURES

1002 [R-2] Petitions to the Director of the USPTO
§ 1.181 Petition to the Director.

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

1002.02(c) [R-2] Petitions and Requests Decided by the Technology Center Directors

3. Petitions invoking the supervisory authority of the Director of the USPTO under 37 CFR §1.181 involving any ex parte action or requirement in a patent application by the examiner which is not subject to appeal (37 CFR 1.191) and not otherwise provided for, as for example:

... (d) relative to *formal sufficiency and propriety of affidavits under 37 CFR §1.131* (MPEP § 715.08), 1.132 (MPEP § 716) and 1.608, MPEP § 2308 - § 2308.02;

715.04 [R-6] Formal Requirements of Affidavits and Declarations include:

I. Who may make the affidavit or declaration – all inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s).

II. Formal requirement of affidavits and declarations must further include an acknowledgment by the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant must set forth in the body of the declaration that all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.

715.08 [R-6] Passed Upon by Primary Examiner

The *question of sufficiency* of affidavits or declarations under 37 CFR §1.131 should be *reviewed and decided by a primary examiner.*

Review of questions of formal sufficiency and propriety are by petition filed under 37 CFR §1.181. Such petitions are answered by the Technology Center Directors (MPEP § 1002.02(c))

Review on the merits of a 37 CFR §1.131 affidavit or declaration is by appeal to the Board of Patent Appeals and Interferences.

§ 1.131 Affidavit or declaration of prior invention.

(a) When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination,

or the party qualified under §§ 1.42, 1.43, or 1.47, *may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.* The effective date of a U.S. patent, U.S. patent application publication, or international application publication under PCT Article 21(2) is the earlier of its publication date or date that it is effective as a reference under 35 U.S.C. 102(e). Prior invention may not be established under this section in any country other than the United States, a NAFTA country, or a WTO member country. Prior invention may not be established under this section before December 8, 1993, in a NAFTA country other than the United States, or before January 1, 1996, in a WTO member country other than a NAFTA country. Prior invention may not be established under this section if either:

(1) The rejection is based upon a U.S. patent or U.S. patent application publication of a pending or patented application to another or others which claims the same patentable invention as defined in § 41.203(a) of this title, in which case an applicant may suggest an interference pursuant to § 41.202(a) of this title; or

(2) The rejection is based upon a statutory bar.

(b) *The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application.* Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration or their absence must be satisfactorily explained.

1201 [R-3] Introduction

The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. *Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits,* and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).

The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and *the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board.* However, since 37 CFR §1.181(f) states that any petition not filed within 2 months from the action complained of may be dismissed as untimely and since 37 CFR 1.144 states that petitions from restriction requirements must be filed no later than appeal, petitionable matters will rarely be present in a case by the time it is before the Board for a decision. In re Watkinson, 900 F.2d 230, 14 USPQ2d 1407 (Fed. Cir. 1990).

OPINION

A. Issues regarding Declaration under C.F.R. §1.131

A review of the record shows that non-final office action mailed 07/20/09 states that: "the affidavit filed 12/04/08 under 37 C.F.R. 1.131 has been *considered but was found* ***ineffective*** *to overcome the US 7,188, 120 and US 7,337,455 references*.". Hereafter referred to as the '120 and '455 patent, respectively.

The Office Action more specifically states in essence that (a) the evidence submitted is insufficient to establish conception of the invention prior to the '120 and '455 references (see page 2 of action) and that (b) the evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the references '120 and '455 patents (see page 4-5 of action).

Hence, the question of sufficiency of affidavits or declarations under 37 CFR §1.131 with respect as to (A) Whether the declaration under 37 C.F.R. §1.131 by inventors Serguei Beloussov, et. al. is *sufficient to establish conception of the invention prior to the effective dates of the references*; and (B) Whether the declaration under 37 C.F.R. §1.131 by Applicant's attorneys at the law firm Sterne Kessler Goldstein Fox is *sufficient to establish diligence in constructive reduction to practice* has been be *reviewed and decided* by a primary examiner, as required by the above statutes and/or rules.

The reasons to support the examiner's decision were that the *facts/evidence* presented were deemed *insufficient to show/establish* conception of the invention prior to the effective dates of the references and *insufficient* to show/establish *diligence* in reduction to practice.

It is noted that, the **effectiveness** of the declaration as to whether it is sufficient to (a) establish conception of the invention prior to the effective dates of the references; and (b) establish diligence in constructive reduction to practice *does not* pertain to the *formal sufficiency and propriety* of the declaration filed under 37 C.F.R. §1.131 and thereby **not petitionable** under 37 C.F.R. §1.181 which are answered by the Technology Center Directors in accordance with MPEP § 1002.02(c). Review of questions of formal sufficiency and propriety are for example, untimeliness, unsigned, denied entry, etc.

Review of questions as to: (A) Whether the declaration under 37 C.F.R. §1.131 by inventors Serguei Beloussov, et. al. is *sufficient to establish conception of the invention prior to the effective dates of the references*; and (B) Whether the declaration under 37 C.F.R. §1.131 by Applicant's attorneys at the law firm Sterne Kessler Goldstein Fox is *sufficient to establish diligence in constructive reduction to practice,* pertain to the effectiveness/merits of a 37 CFR §1.131 affidavit or declaration and thereby are issues to be address by **appeal** to the Board of Patent Appeals and Interferences.

The effectiveness of the declaration under 37 C.F.R. §1.131 depends on the resolution of that appealable issue. The issue of reduction to practice is a question of law based on the underlying facts. Hybritech, Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1376, 231 U.S.P.Q. 81, 87 (Fed.Cir.1986), cert. denied, 480 U.S. 947, 107 S. Ct. 1606, 94 L.Ed.2d 792 (1987). The issues requested by Petitioner to be reviewed are not directed to a petitionable issue.

B. Issues regarding the Effective Priority Date of Leonard

The record of instant application shows a Supplemental Advisory Action (11/16/09) in which the issue appears to have been reasonably addressed by the Examiner. The advisory action

provides (p. 2) a showing as to whether the provisional 60/469,558 can be relied upon to teach the claimed limitation, "at least one designated Virtual Private Server (VPS) with a set of services that perform administrative operations, wherein the designated VPS provides administrative services to each of the server processes..."

C. Issues regarding the Propriety of Final Rejections under U.S.C. §102(a) based on Leonard et. al. (US 7,188,120)

The record of instant application shows a Supplemental Advisory Action (11/16/09) in which the issue appears to have been reasonably addressed by the Examiner. The advisory action more particularly provides (p. 3) a showing where the references teaches the claimed limitation, "at least one designated Virtual Private Server (VPS) with a set of services that perform administrative operations, wherein the designated VPS provides administrative services to each of the server processes... ."

D. Issues regarding the Propriety of Final Rejections under U.S.C. §102(a) based on TechOne Hosting

The record of instant application shows a Supplemental Advisory Action (11/16/09) in which the issue appears to have been reasonably addressed by the Examiner. The advisory action specifically provides (p. 3-4) a showing as to where the reference teaches the claimed limitation, "at least one designated Virtual Private Server (VPS) with a set of services that perform administrative operations, where the designated VPS provides administrative services to each of the server processes.... ."

E. Issues regarding the Effective Priority Date of Leonard with respect to provisional 60/469,558.

The record of instant application shows a Supplemental Advisory Action (11/16/09) to applicant in which the issue appears to have been addressed by the Examiner. The advisory action particularly provides (p. 5) a showing of where each cited portion of the Leonard reference (US 7,188,120) subject matter finds support under 35 USC 112, first, in the written description of the specification in the provisional application 60/469,558 to which priority is claimed.

Because the issues raised in the above-mentioned petition have been reasonably addressed by Examiner with certain degree of clarity and precision in the noted advisory action, these issues are ***dismissed as moot.***

CONCLUSION

For the reasons above stated, the petition under 37 C.F.R. §1.181 to invoke the Supervisory Authority of the Commissioner to review the sufficiency and propriety of the Declarations under 37 CFR §1.131 submitted in this patent application (issues 1 through 2 of petition p. 3) is **dismissed.**

For the reasons above stated, the petition under 37 C.F.R. §1.181 to invoke the Supervisory Authority of the Commissioner to review the Effective Priority Date of the Leonard reference, the propriety of final Rejection under 35 USC 102 based on Leonard and Price, and further based on TechOne Host (issues 3-5 of petition on p. 3) **dismissed as moot**.

Any inquiry regarding this decision should be directed to Beatriz Prieto at (571)-272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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CHARLES G. NESSLER
P.O. BOX H
CHESTER, CT 06412

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APR 26 2004

OFFICE OF PETITIONS

In re Application of	:	
David A. Potts	:	
Application No. 10/286,298	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. 9916 A	:	

This is a decision on the petition, filed April 23, 2004, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application under 37 CFR 1.53(b).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Files Repository.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 11

Miles B. Dearth
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SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
Kintz, et al. : DECISION ON PETITION
Application No. 10/286,303 :
Filed: November 1, 2002 :
Docket No.: IR-2652(ET)CIP2 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 18, 2004 for failure to timely reply to the non-final Office action mailed December 17, 2003. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed July 23, 2004.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JJGJR.: 06-04

Paper No: 7

ERNEST D. BUFF
ERNEST D. BUFF & ASSOCIATES, LLC
245 SOUTH STREET
MORRISTOWN NJ 07960

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OFFICE OF PETITIONS

In re Application of
Khan
Application No. 10/286,306
Filing Date: 1 November, 2002
Attorney Docket No. 0012-1 CIP

DECISION ON PETITION

This is a decision on the petition filed on 18 June, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

NOTE: The petition in the instant matter failed to state expressly that the entire delay from the due date of the reply until the filing of a grantable petition was unintentional, however, in the interest of time the petition has been read to contain that statement.

If this interpretation is incorrect, Petitioner **must** notify the Office immediately.

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers (for corrected drawing (Fig. 8b)) mailed on 13 January, 2003, with reply due absent an extension of time on or before 13 March, 2003;
- the application went abandoned by operation of law after midnight 13 March, 2003;
- the Office mailed a Notice of Abandonment on 1 June, 2004;
- with the instant petition and fee and statement of unintentional delay, Petitioner filed corrected drawing (Fig. 8b) as the required reply.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and a terminal disclaimer where appropriate. Here the terminal disclaimer is unnecessary. Petitioner has filed the petition, fee and reply, and the statement has been interpreted to satisfy the regulatory requirements.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The file is The instant application is forwarded to OIPE for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[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 24 2003

OFFICE OF PETITIONS

Applicant: Wang
Appl. No.: 10/286,332
Filing Date: November 1, 2002
Title: METHOD OF VACCINATION THROUGH SEROTYPE ROTATION
Pub. No.: US 2003/0138459 A1
Pub. Date: July 24, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on August 29, 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.

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 Office correctly published the application in accordance with § 1.215(a) with a filing date of March 17, 2003. The application as originally filed on November 1, 2002, did not include a copy of Figure 56B, which was described in the specification. Since applicant supplied a copy of the missing figure on March 17, 2003, that became the filing date of the application. An Updated Filing Receipt was mailed on April 14, 2003, which listed the filing date of the application as March 17, 2003.

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.

---

[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).

Any request for republication under 37 CFR 1.221(b), 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: 703-305-8568

The application is being forwarded to Technology Center 1648 to await further examination 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

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Updated Filing Receipt

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Paper No. 15

WILSON SONSINI GOODRICH & ROSATI
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PALO ALTO, CA 94304-1050

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MAY 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Danher Wang :
Application No. 10/286,332 : DECISION ON PETITION
Filed: November 1, 2002 :
Attorney Docket No. 22488-738 :

This is a decision on the "REQUEST FOR CORRECTED UPDATED FILING RECEIPT," filed August 28, 2003 (and resubmitted October 2, 2003), requesting that the filing date of the above-identified application be corrected from March 17, 2003 to November 1, 2002.

Application papers in the above-identified application were deposited on November 1, 2002. On December 18, 2002, the Office mailed a NOTICE TO FILE MISSING PARTS OF APPLICATION, acknowledging that the application as filed had been accorded a filing date of November 1, 2002. However, the Notice requested that applicant file replacement drawings of all of the drawings received and notified applicant that Figure 56(B) described in the specification appeared to have been omitted from the application.

35 U.S.C. 111(a)(4) provides, in pertinent part, that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

Furthermore, 37 C.F.R. 1.53(b) provides that:

> The filing date of an application for patent filed under this section, except for a provisional application under paragraph ©) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. *No new matter may be introduced into an application after its filing date. (Emphasis added).*

Applicant filed no petition in response to the Notice. Rather, on March 17, 2003, applicant filed replacement drawings, including replacement figure 56(B). As stated in the decision dismissing applicant's request for correction of patent application publication mailed September 24, 2003, the Office then accorded the application a filing date of March 17, 2003:

> The application as originally filed on November 1, 2002, did not include a copy of Figure 56(B), which was described in the specification. Since applicant supplied a copy of the missing figure on March 17, 2003, that became the filing date of the application.

Applicant now files the instant petition, asserting that the content of Figure 56B is fully described in the application originally filed on November 1, 2002 and does not constitute new matter. Applicant requests that the filing date of the above-referenced application be November 1, 2002. Applicant requests, in effect, that the application be amended to include the drawing of figure 56(B) described in the specification.

The petition is **dismissed**.

The mailing of a Notice stating that an Item appears to have been omitted from an application 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, petitioner does not assert that the missing drawing was deposited on November 1, 2002. However, petitioner, in effect, disputes requesting that a March 17, 2003 (the date the drawing figure was supplied) be accorded. Moreover, the record reveals that the replacement drawings filed on March 17, 2003 did not include a petition requesting the later date or a declaration referencing later filed drawings. Under the circumstances, the application will be accorded a filing date of November 1, 2002 without figure 56(B) as part of the original application disclosure. It is deemed that applicant constructively accepted the application as filed.

With regard to amending the application to include drawing figure 56(B), such amendment is not by way of petition under 37 CFR 1.182. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a). Accordingly, applicant may file a preliminary amendment to amend the application to include figure

56(B). This amendment will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee has been charged to Deposit Account No. 23-2415, as authorized. This fee will not be refunded as the petition was not necessary to correct any error on the part of the Office.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for

- correction of the **filing date to November 1, 2002**;
- appropriate notation in the record that figure 56(B) is not considered part of the original application disclosure; and
- mailing of a corrected filing receipt.

Thereafter, the application will be returned to Technology Center 1648 for mailing of a first Office action.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

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80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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NOV 16 2009

OFFICE OF PETITIONS

In re Patent No. 6,984,118	:	
Issued: January 10, 2006	:	
Application No. 10/286,337	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. 3081.11US01	:	

This is a decision on the petition, filed April 30, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to change the assignee on the issued patent.

The request is **DISMISSED**.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name and correct address of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name and correct address of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that the most current assignment recorded January 8, 2003, Reel 013643 and Frame 0207 states the assignee's name as "Institut Fur Fertigteiltechnik Und Fertigbau Weimar E.V.", which is exactly as it was published on the above-identified patent.

Accordingly, since petitioner is requesting a correction of a previously recorded assignment that was not submitted for recordation to the Assignment Branch and since it is after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

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Gregory L. MAURER
KLARQUIST SPARKMAN, LLP
121 S.W. Salmon Street
One World Trade Center, Suite 1600
Portland, Oregon 97204

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FEB 21 2007

Technology Center 2100

In re Application of:
Kenneth J. RENDER
Appl. No.: 10/286,339
Filed: October 31, 2002
For: SYSTEM AND METHOD FOR EVALUATING INTERNET AND INTRANET INFORMATION

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 15 December 2006, to expunge information submitted on 03 July 2003.

The petition is **GRANTED**.

Petitioner requests that the documents entitled "Operations Security, Internet Presence Assessment Guide," October 1998 and "Operations Security, Internet Presence Assessment Guide," August 2001 be expunged from the record. Petitioner states that these document filed on 03 July 2003 were proprietary information. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The expunged materials have been closed from public view and will not be returned to applicant.

It is noted that the instant application has been published on May 06, 2004. Thus, the document submitted on July 03, 2003 has already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Xuedong Song	: DECISION ON REQUEST FOR
Patent Number	: 7632653	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/286,342	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **980** 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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P.O. BOX 2250
SALT LAKE CITY UT 84110

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SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 6,855,358 :
Issue Date: February 15, 2005 :
Application No. 10/286,345 : ON PETITION
Filed: November 1, 2002 :
Attorney Docket No. 3041-5501US :

This is a decision on the petition under 37 CFR 1.378(c), filed July 24, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or

other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Steve Nickolas) was ever given a power of attorney to act on behalf of inventor Andrew Stewart, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (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
Post Office 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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
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

TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Patent No. 6,855,358
Issue Date: February 15, 2005
Application No. 10/286,345
Filed: November 1, 2002
Attorney Docket No. 3041-5501US

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.378(c), filed November 9, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 15, 2009, for failure to pay the three and one-half year maintenance fee.

Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: ALLEN C. TURNER
230 SOUTH 500 EAST,
SUITE 300
SALT LAKE CITY, UT 84102

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

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MAY 02 2003

OFFICE OF PETITIONS

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

In re Application of :
Cook, et al. :
Application No. 10/286,354 :
Filed: November 1, 2002 :
Attorney Docket No.: 010394-9017-01:
For: MULTI-POSITION PRESENTATION :
EASEL :

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed April 9, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventors Ronald D. Cook and Pamela J. Emken 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(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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MAY 02 2003

OFFICE OF PETITIONS

LETTER

RONALD D. COOK
4142 HIGHLAND PLACE
RIVERSIDE, CA 92506

In re Application of :
Cook, et al. :
Application No. 10/286,354 :
Filed: November 1, 2002 :
Attorney Docket No.: 010394-9017-01:
For: MULTI-POSITION PRESENTATION :
EASEL :

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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MAY 0 2 2003

OFFICE OF PETITIONS

PAMELA J. EMKEN
217711 LAKE MATHEWS DRIVE
LAKE MATHEWS, CA 92570

In re Application of :
Cook, et al. :
Application No. 10/286,354 : LETTER
Filed: November 1, 2002 :
Attorney Docket No.: 010394-9017-01:
For: MULTI-POSITION PRESENTATION :
EASEL :

Dear Madam:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FROM DIRECTORS OFFICE

MAY 31 2007

TECHNOLOGY CENTER 3600

LAW OFFICES OF
MACPHERSON, KWOK, CHEN & HEID LLP
2033 GATEWAY PLACE, SIUTE 400
SAN LOSE, CA 95110

In re Application of SCOTT BLOEBAUM
Appl. No.: 10/286,360
Filed: November 1, 2002
For: MULTI-FUNCTION DEVICE WITH POSITIONING AND SHARED PROCESSOR

DECISION OF PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed March 23, 2007 which is treated as a petition under 37 CFR 1.181 since documents can only be expunged prior to issuance.

Petitioner requests that the Response to Office Action filed December 12, 2006 be removed from the record. Petitioner states that the document was intended to be submitted for another application but applicant inadvertently indicated the wrong application number.

The petition is Dismissed as moot.

The December 12, 2006 paper has already been "closed out" such that it is effectively removed from being part of the record of the instant application.

Any questions about this decision should be directed to Thomas Tarcza at 571-272-6979.

Donald T. Hajec
Director, T.C. 3600
571-272-5150

tht/snm: 5-24-07
SM

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John P. O'Banion
O'BANION & RITCHEY LLP
Suite 1550
400 Capitol Mall
Sacramento, CA 95814

Mail Date: 04/21/2010

Applicant	: Kenneth Rose	: DECISION ON REQUEST FOR
Patent Number	: 7639739	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/286,364	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1944** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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John P. O'Banion
O'BANION & RITCHEY LLP
Suite 1550
400 Capitol Mall
Sacramento, CA 95814

Mail Date: 05/18/2010

Applicant : Kenneth Rose
Patent Number : 7639739
Issue Date : 12/29/2009
Application No : 10/286,364
Filed : 11/01/2002

: 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 **2024** 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

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JAN 2 6 2007

OFFICE OF PETITIONS

In re Application of

Jonathan Bedford

Application No. 10/286,366

Filed: November 1, 2002

Attorney Docket No. MAT 3F7U04

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 20, 2 006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on June 14, 2005, after it was believed that no response was received to the communication mailed May 13, 2005. The communication allowed a period for reply of one month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A review of the application file history reveals that a reply to the communication of May 13, 2005, was filed on June 15, 2005. On June 21, 2005, a "Notice of Non-Compliant Amendment" was mailed indicating that the response of June 15, 2005, was defective and allowing a non-extendable period for reply of one-month from its mailing date. The "Notice of Non-Compliant Amendment" was withdrawn by a communication mailed November 1, 2005. A Notice of Abandonment was mailed on October 31, 2006.

The instant petition was filed November 20, 2006. Petitioner essentially argues that the application cannot be abandoned because a response was timely filed to the May 13, 2005, communication, on June 15, 2005, yet no Office response was provided thereto. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply and no further Office actions are of record thereafter. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 3700, GAU 11 for further processing including processing of the reply filed June 15, 2005.

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

KURT T. MULVILLE
ORRICK, HERRINGTON & SUTCLIFFE LLP
4 PARK PLAZA, SUITE 1600
IRVINE, CA 92614

In re Application of	:	
PARK et al.	:	
Application No. 10/286,380	:	DECISION ON PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 13337.3	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 23, 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 with the 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 .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 satisfy items (1) and (3) above.

The amendment filed November 23, 2005 to the first line of the specification accompanying the petition references both prior-filed nonprovisional application, U.S. Patent Application No. 10/258,828, and International Application No. PCT/KR01/00681. U.S. Patent Application No. 10/258,828 filed under 35 U.S.C. 371 is the national stage application of PCT/KR01/00681. Therefore, the current benefit claim of the present application being a continuation-in-part of both U.S. Patent Application No. 10/258,828 *and* PCT/KR01/00681 is improper. A proper claim would read, "This application is a continuation-in-part of U.S. Application No. 10/258,828, which was the National Stage of International Application No. PCT/KR01/00681, filed April 24, 2001." See MPEP 201.11. Additionally as presently written, the filing date of PCT/KR01/00681 is incorrect. The filing date of PCT/KR01/00681 is April 24, 2001 *not* April 25, 2000.

As for requirement (3), the statement of unintentional delay provided varies from the language set forth in 37 CFR 1.78(a)(3)(iii). 37 CFR 1.78(a)(3) requires 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 Office recommends the petitioner include a statement of unintentional delay that tracks the language set forth in 37 CFR 1.78(a)(3) in any renewed petition.

The declaration filed on February 5, 2003 improperly claims foreign priority to International Application No. PCT/KR01/00681. U.S. Application No. 10/258,828 is a national stage application of International Application No. PCT/KR01/00681, designating the United States. The application should, therefore, not be listed under claims for priority under 35 U.S.C. 119(a)-(d) or 365(b). See 35 U.S.C. § 363. Corrections to the improper claim should be made by way of a supplemental declaration in compliance with 37 CFR 1.67 or an Application Data Sheet in compliance with 37 CFR 1.76.

A petition fee of $1,370 to accept an unintentionally delayed claim for priority has been charged to petitioner's deposit account as authorized in the petition.

Before the petition can be granted, petitioner must submit an amendment to the first line of the specification with the correct benefit claim and correct filing date for PCT/KR01/00681 and a statement of unintentional delay that tracks the language found in 37 CFR 1.78(a)(3)(iii), along with a renewed petition under 37 CFR 1.78(a)(3).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Denise Pothier at (571) 272-4787.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KURT T. MULVILLE
ORRICK, HERRINGTON & SUTCLIFFE LLP
4 PARK PLAZA, SUITE 1600
IRVINE, CA 92614

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
PARK et al.	:	
Application No. 10/286,380	:	DECISION ON PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 13337.3	:	

This is a decision on a renewed petition under 37 CFR 1.78(a)(3), filed January 26, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment and the Application Data Sheet filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR .78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-

filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Denise Pothier at (571) 272-4787. 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 1634 for appropriate action on the amendment filed January 26, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed 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
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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
10/286,380	11/01/2002	1634	440	13337.3	6	8	1

CONFIRMATION NO. 2276

CORRECTED FILING RECEIPT

OC000000018087730

ORRICK, HERRINGTON & SUTCLIFFE LLP
Suite 1500
4 Park Plaza
Irvine, CA 92614

Date Mailed: 02/17/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jong-Wook Park, Daegu, KOREA, REPUBLIC OF;
Chang-Ho Jeon, Daegu, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

iC&G CO., LTD.

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/258,828 10/25/2002
which is a 371 of PCT/KR01/00681 04/24/2001

Foreign Applications

REPUBLIC OF KOREA 2000-21837 04/25/2000

If Required, Foreign Filing License Granted: 12/13/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/286,380

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Selected primers for detection of MAGE or GAGE genes for diagnosis of cancer and methods of use

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/5/09

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction for Appl. No.: 14/286388 Patent No.: 6799331 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 (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

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: _____

/Gary L. Welch/ — **SPE**

3765 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

FISH & RICHARDSON, P.C.
3300 DAIN RAUSCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

COPY MAILED

JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of
Schulze
Application No. 10/286,390
Filed: October 31, 2002
Attorney Docket No. 13914-013001 / 2002P00228
For: CREATING AND CONDUCTING A REVERSE AUCTION

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed July 9, 2003 (certificate of mailing date July 7, 2003).[1]

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" 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 31, 2002 without an executed oath or declaration. Accordingly, on December 6, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a filing fees, and a surcharge for their late filing.

In response, on July 9, 2003 (certificate of mailing date July 7, 2003), a petition for a five month extension of time and required fee, the surcharge, application filing fees, authorization to charge the petition fee, and the instant petition were filed[2]. A declaration of facts of Attorney Kenyon Jenckes accompanied the petition. Attorney Jenckes sets forth the last known address of the sole non-signing inventor, Arne Schulze, and explains that the inventor was mailed the application papers and declaration, but has not signed the oath or declaration for the patent application. Attorney Jenckes states that Mr. Schulze and a party in interest, SAP AG, are currently in negotiations regarding execution of the declaration.

---

[1] Petitioner requests consideration under 37 CFR 1.47(a). However, when no inventor executes the declaration, a petition under 37 CFR 1.47(b), in which a party with proprietary interest makes application on behalf of the non-signing inventor(s), is required. Therefore, the instant petition will be treated under 37 CFR 1.47(b).

[2] Pursuant to petitioner's authorization, deposit account no. 06-1050 will be charged a $130.00 petition fee.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (1), (2), and (5) set forth above.

As to item (1), Applicant has failed to establish that the inventor has refused to sign the declaration. As of July 7, 2003, SAP AG and Mr. Schulze were negotiating regarding compensation in exchange for Mr. Schulze's cooperation in executing the declaration. The Office would like to know the status of the negotiation process. 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 still has not been presented. The Office has no record of receiving a declaration for this application. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Inventor Schulze is REQUIRED. See MPEP 409.03(b).

The Office requires petitioner to submit a declaration listing Mr. Schulze's name, citizenship, post office address, and residence. Mr. Schulze's signature block should be left blank. The person who is signing the declaration for SAP AG (assuming SAP AG proves that it has a proprietary interest in the invention) must list his/her own name and title thereon, in addition to the information pertaining to the inventor.

As stated in the MPEP 409.03(b), where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Mr. Schulze is REQUIRED. See MPEP 409.03(b).

As to item (5), Rule 47 applicant failed to show or provide proof that SAP AG, has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant (company), a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
Attn: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
Attn: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: KENYON S. JENCKES
FISH & RICHARDSON P.C.
12390 EL CAMINO REAL
SAN DIEGO, CA 92130

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

FISH & RICHARDSON, P.C.
3300 DAIN RAUSCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of
Schulze
Application No. 10/286,390
Filed: October 31, 2002
Attorney Docket No. 13914-013001 / 2002P00228
For: CREATING AND CONDUCTING A REVERSE AUCTION

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed August 23, 2004 (certificate of mailing date August 20, 2004).

The petition under 37 CFR 1.47(b) is GRANTED.

Petitioner has shown that the non-signing inventor, Arne Schulze, 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 facts of Attorney Kenyon Jenckes sets forth the last known address of the sole non-signing inventor, Arne Schulze, and explains that the inventor was mailed the application papers and declaration. Attorney Guenther Schmalze explains in his declaration that he and Mr. Schulze had numerous conversations in which Mr. Schulze asked about inventor remuneration among other issues. Attorney Schmalze answered his questions, but Mr. Schulze neither contacted Attorney Schmalze, nor returned an executed declaration. This behavior constitutes constructive refusal to join in the filing of the application. In addition, petitioner has shown that SAP AG has a proprietary interest in the above-identified application with the memorandum of law establishing that a court of competent jurisdiction would award title to SAP AG company. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: KENYON S. JENCKES
FISH & RICHARDSON P.C.
12390 EL CAMINO REAL
SAN DIEGO, CA 92130

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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ARNE SCHULZE
HEINRICH NICOLAUS STRASSE 24
85221 DACHAU
GERMANY

COPY MAILED

SEP 16 2004

OFFICE OF PETITIONS

In re Application of Schulze Application No. 10/286,390 Filed: October 31, 2002 Attorney Docket No. 13914-013001 / 2002P00228 For: CREATING AND CONDUCTING A REVERSE AUCTION	: : : : : :	LETTER

Dear Mr. Schulze:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: FISH & RICHARDSON, P.C.
3300 DAIN RAUSCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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APPLIED MATERIALS, INC.
Patent Department, M/S 2061
P.O. Box 450A
Santa Clara CA 95052

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APR 2 6 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Lian, et al. :
Application No. 10/286,402 :
Filed: November 1, 2002 :
Attorney Docket No. 006717 :
USA/ETCH/SILICON/J
For: INTERFEROMETRIC ENDPOINT DETERMINATION IN A SUBSTRATE ETCHING PROCESS

This is a decision on the petition under 37 CFR 1.137(b), filed on March 31, 2006 (certificate of mailing date March 28, 2006) to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed May 20, 2005, which set an extendable three month period for reply. An amendment after final, filed timely with a two month extension of time on October 20, 2005, failed to place this application in prima facie condition for allowance, as was stated in the November 7, 2005 Advisory Action. Accordingly, this application became abandoned on October 21, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a RCE and required fee and amendment in reply to the May 20, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 20, 2005 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1763 for consideration of the RCE and amendment filed on March 31, 2006 (certificate of mailing date March 28, 2006).

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

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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IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170

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JUN 06 2008

In re Application of

Perry, et al.

Application No. 10/286,409

Filed: November 1, 2002

Attorney Docket No. P1013/LMRX-P009

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), May 15, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,440.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed November 28, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on February 29, 2008. A Notice of Abandonment was mailed March 24, 2008.

The issue fee, publication fee, and Form PTOL-85-b were received on May 15, 2008.

The application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 9

KANG LIM
3494 CAMINO TASSAJARA ROAD #436
DANVILLE, CA 94306

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FEB 24 2004

OFFICE OF PETITIONS

In re Application of	:
Lieberson, Robert E.	:
Application No. 10/286,412	: DECISION ON PETITION
Filed: November 1, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. RL-0201	:

This is a decision on the petition, filed January 30, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED AS MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on October 17, 2003. A review of the file record discloses that a Notice to Rescind was received in the USPTO on October 1, 2003.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/ patog/week26/.

In the instant application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen month publication country. Therefore, since receipt in the USPTO of the request to rescind prior to the filing date of a counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 3, 2004 was previously mailed on February 20, 2004.

Since this application is not in fact abandoned, for the reason stated above, the petition fee of $665.00 is being credited to Deposit Account No. 50-2766 as authorized.

This application is being forwarded to Technology Center 3700 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Schwegman, Lundberg & Woessner, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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JAN 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Karthik Ramani et al.	:	
Application No. 10/286,413	:	DECISION ON PETITION
Filed: October 31, 2002	:	TO WITHDRAW
Attorney Docket No. 1165.019US1	:	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 1, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, P.A. has been revoked by the assignee of the patent application on August 15, 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: **Woodard, Emhardt, Moriarty, McNett, & Henry LLP**
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

COPY MAILED
JAN 11 2008
OFFICE OF PETITIONS

In re Application of	:	
Karthik Ramani et al.	:	
Application No. 10/286,413	:	DECISION ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 1165.019US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 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 April 24, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 24, 2007. Accordingly, the date of abandonment of this application is April 25, 2007. The Notice of Abandonment was mailed May 24, 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 $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Publishing Division for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARK A. LITMAN & ASSOCIATES
YORK BUSINESS CENTER
SUITE 205
3209 W. 76TH ST.
EDINA MN 55435

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NOV 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Fordahl et al :
Application No. 10/286,415 :
Filed: October 31, 2002 :
Attorney Docket No. 456.02.036US1 :

This is a decision on the petition, filed August 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 (571) 272-3208.

The examiner of Technology Center AU 2852 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

JOHN A. FORTKORT
JOHN A. FORTKORT P.C.
4512 COURT OF ST. JAMES
AUSTIN, TX 78730

COPY MAILED

MAY 28 2003

OFFICE OF PETITIONS

In re Application of
Wetz et al.
Application No. 10/286,438
Filed: October 31, 2002
Attorney Docket No. SC12160ZK

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(a)

This decision concerns the April 14, 2003 petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

Two inventors are named in this application. The application was filed without an oath or declaration. On December 5, 2002, A Notice to File Missing Parts of Nonprovisional Application was mailed, giving Applicants an extendable 2-month period to submit, *inter alia*, a proper oath or declaration.[1] In response, the instant petition was filed, accompanied by a "Declaration for Utility or Design Patent Application (37 CFR 1.63) Combined with Power of Attorney" signed by only 1 inventor ("4/14/03 Declaration"), along with a request for a 2-month extension of time and the requisite extension-of-time fee.

The petition asserts that the non-signing inventor, Treliant Fang ("Fang"), refuses to join in this application, and requests that the signing inventor, Li Ann Wetz ("Wetz") be allowed to file this application on behalf of herself and Fang. Under 37 CFR 1.47(a), Wetz may file this application on behalf of herself as well as Fang provided that a *bona fide* attempt has been made to present to Fang, for review and signature, a copy of the entire application (specification including claims; drawings), and that the latter refuses to join in this application.[2]

To show that Fang 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 Fang at his last known address,[3] and his subsequent refusal.[4]

---

[1] Also missing was the application basic filing fee.

[2] MPEP section 409.03(d) (Rev. 1, Feb. 2003).

[3] 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

[4] See *supra* note 2.

The petition and the exhibits indicate that:

(1) A copy of the entire application (specification including claims; drawings) was sent to Fang by e-mail on March 13, 2003.

(2) Fang replied by e-mail on the same day, refusing to sign the declaration unless paid.

In view of the above, the Office concludes that counsel had made a *bona fide* attempt to present to Fang, for review and signature, a copy of the entire application before concluding that Fang refused to join in this application. The petition is thus granted. The 4/14/03 Declaration is hereby accepted.

As authorized in the petition, the $130 petition fee and the $130 surcharge for late filing of an acceptable oath/declaration, as well as the $750 basic filing fee, have been charged to Deposit Account No. 50-1047. The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Fang at his last known address provided in the petition:

6324 W. Dublin Lane
Chandler, AZ 85226

Notice of the filing of this application will also be published in the *Official Gazette*.

Finally, the petition utilizes a correspondence address different from that in the Office record. While a courtesy copy of this decision is being sent to the address indicated in the petition, all future correspondence on this application will be sent to the current address-of-record unless the Office is properly instructed otherwise.

The application file is being returned to the Office of Initial Patent Examination for further processing with respect to the 4/14/03 Declaration. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Karin L. Williams, Esq.
Mayer Fortkort & Williams, PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090

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

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Gary Collins	: DECISION ON REQUEST FOR
Patent Number	: 7653206	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/286,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **673** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 11 2005

OFFICE OF PETITIONS

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of :
Young Duk Yoon et al :
Application No. 10/286,462 : ON PETITION
Filed: October 31, 2002 :
Attorney Docket No. 7742.038

This is a decision on the petition, filed April 8, 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 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2821 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).

O I P E JC18
AUG 27 2003
PATENT & TRADEMARK OFFICE

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08-28-03

1638

N1267-011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)
Robert P. STEIDL	)
Serial No. 10/286,467	) Group Art Unit: 1638
Filed: October 31, 2002	) Examiner: Not Assigned
For: INBRED CORN LINE 5020	)

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(b)

Mail Stop Petition
Attn: E. Shirene Willis
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Ms. Willis:

In response to your Decision Refusing Status Under 37 CFR 1.47(b) requesting proof of proprietary interest, Applicant encloses a copy of the Bill of Sale from Growmark, Inc. to FFR Cooperative.

Assignee requests that this decision be vacated since a proper proof of proprietary interest has been provided.

Respectfully submitted,

August 27, 2003

By Robert J. Jondle
Robert J. Jondle
Attorney for Applicant
Registration No. 33,915

JONDLE & ASSOCIATES P.C.
9085 East Mineral Circle, Suite 200
Centennial CO 80112
Telephone: (303) 799-6444

O I P E JC180
AUG 27 2003
PATENT & TRADEMARK OFFICE

BILL OF SALE

GROWMARK, Inc., a Delaware corporation operating on a cooperative basis ("Seller"), having its principal place of business at Bloomington, Illinois, in consideration of the payment of One Dollars ($1.00), receipt of which is hereby acknowledged, does hereby sell, assign, transfer and set over to FFR Cooperative, a Wisconsin cooperative corporation ("Buyer"), having its principal place of business at West Lafayette, Indiana, the assets listed on Exhibit A hereto (collectively, the "Transferred Property").

Seller hereby represents and warrants to Buyer that (a) Seller is the absolute owner of the Transferred Property, other than the intellectual property rights listed on Exhibit B, (b) Seller has no actual knowledge of any pending or threatened claim, or any facts or circumstances which may lead to a claim (such as the existence of third party rights or unlawful circumstances surrounding the acquisition of Seller's rights), against the intellectual property rights listed on Exhibit B, and (c) Seller has full right, power and authority to sell the Transferred Property and to make this Bill of Sale. This Bill of Sale is given without any warranties of quality, fitness and merchantability. Seller is solely responsible for and indemnifies and holds Buyer harmless from (a) all actual, threatened or pending liens, mortgages, security interests, charges and encumbrances against the Transferred Property, (b) any obligation or liability under any bulk transfers law that may apply to the transfer of the Transferred Property and (c) any claim of bodily injury or property damage alleged to have been caused by or related to the Transferred Property prior to the date hereof.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale to be signed and sealed as of this 28 day of September, 1999.

GROWMARK, INC.,
a Delaware corporation operating on a
cooperative basis

By: Steve J. Barwick

Title: V.P. Corp. Mkting and Oper.

STATE OF ILLINOIS)
) ss
COUNTY OF McLEAN)

Personally came before me this 28TH day of September, 1999, Steve Barwick, the Vice President of the above named GROWMARK, Inc., to me known to be such person and officer who executed the foregoing instrument as the deed of said corporation, by its authority, and acknowledged the same.

Jean Ann Dargatz

Notary Public, ~~Dane County, Wisconsin~~
My commission: expires 12/15/01

OFFICIAL SEAL
JEAN ANN DARGATZ
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES: 12/15/01

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

JONDLE & ASSOCIATES P.C.
9085 EAST MINERAL CIRCLE
SUITE 200
CENTENNIAL CO 80112

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JUN 0 9 2003

OFFICE OF PETITIONS

In re Application of
Steidl
Application No. 10/286,467
Filed: October 31, 2002
Attorney Docket No. N1267-011
For: INBRED CORN LINE 5020

DECISION REFUSING
STATUS UNDER
37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed May 5, 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(b)" 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 31, 2002 without an executed oath or declaration. Accordingly, on December 4, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on May 5, 2003, a petition for a three month extension of time and required fee, application filing fees, the petition fee, and the instant petition were filed. Statements of facts by Attorney Robert J. Jondle and Steve Baluch, President of a company with proprietary interest in the invention, accompany the petition. Mr. Jondle sets forth the last known address of the non-signing inventor in his statement of facts. The exhibits to Mr. Jondle's statement of facts establish that the inventor received a copy of the application papers, declaration, and assignment, but did not respond to the request that he sign the declaration within a specified, reasonable period of time.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration has not been signed by a properly empowered representative of the Rule 1.47 applicant. **No one has signed the declaration**.

Where a corporation is the Rule 47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) may sign the declaration on behalf of the corporation. Thus, President Baluch has the authority to sign the declaration. Another individual may sign for the corporation, but an officer of the corporation must authorize the individual to sign on its behalf. As stated in the MPEP 409.03(b), where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation.

The Office requires petitioner to submit a new declaration with the signer's name and title listed thereon in addition to the information pertaining to the inventors. As stated above, the signer must be authorized to sign for the corporation. An oath or declaration in compliance with 37 CFR 1.63 signed by the Rule 1.47 applicant on behalf of the inventors is REQUIRED. See MPEP 409.03(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
Attn: E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions -- E. Shirene Willis

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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

JONDLE & ASSOCIATES P.C.
9085 EAST MINERAL CIRCLE
SUITE 200
CENTENNIAL CO 80112

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of Steidl Application No. 10/286,467 Filed: October 31, 2002 Attorney Docket No. N1267-011 For: INBRED CORN LINE 5020	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed by facsimile on August 6, 2003.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" 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 31, 2002 without an executed oath or declaration. Accordingly, on December 4, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing.

With the instant petition, applicant has provided persuasive evidence that non-signing inventor Steidl refuses to sign the declaration and an acceptable declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (5) set forth above.

A closer review of the original petition, filed May 5, 2003, reveals that a document establishing FFR Cooperative, Inc.'s (FFR) proprietary interest is missing. Steve Baluch's statement of facts states, "On September 1, 1999, Growmark, Inc. transferred ownership of several inbred lines including 5020 to FFR Cooperative Inc. FFR was to have full rights to use at their discretion in

future breeding programs. (Exhibit 4)..."

Exhibit 4, however, is not the September 1, 1999 agreement between Growmark, Inc. and FFR. Instead, Exhibit 4 is a letter from a Seed Division Manager of Growmark, Inc. to President Baluc, dated April 22, 2003, stating the FFR has ownership of 5020. This document alone cannot establish a chain of title between Growmark, Inc. and FFR. The letter merely references an agreement that establishes a chain of title. Unfortunately, Exhibit 4 does not contain a copy of the September 1, 1999 agreement transferring ownership and the Office has no record of recording this document.

Petitioner is requested to furnish a copy of the September 1, 1999 document that shows Growmark, Inc. transferred ownership rights to FFR. Once this document is submitted, the petition will be granted. To expedite matters, petitioner may wish to transmit the September 1, 1999 document by facsimile.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
Attn: E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions -- E. Shirene Willis

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

JONDLE & ASSOCIATES P.C.
9085 EAST MINERAL CIRCLE
SUITE 200
CENTENNIAL CO 80112

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MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of Steidl Application No. 10/286,467 Filed: October 31, 2002 Attorney Docket No. N1267-011 For: INBRED CORN LINE 5020	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed on February 13, 2004 (postcard receipt date August 27, 2003). The undersigned apologizes for the delay in addressing the petition and regrets any inconvenience occasioned by the delay.

Petitioner has shown that the non-signing inventor, Robert P. Steidl, has refused to join in the filing of the above-identified application after having been presented with the application papers. In addition, petitioner has shown that FFR Cooperative, Inc. has a proprietary interest in the above-identified application with the copy of an executed employment agreement showing that the inventor had an obligation to assign any patent rights to Growmark, Inc. and that Growmark, Inc. transferred ownership of rights in the invention to FFR Cooperative, Inc. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded Technology Center 1600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ROBERT P. STEIDL
PO BOX 703
FORREST IL 61741

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MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Steidl :
Application No. 10/286,467 : LETTER
Filed: October 31, 2002 :
Attorney Docket No. N1267-011 :
For: INBRED CORN LINE 5020 :

Dear Mr. Steidl:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: JONDLE & ASSOCIATES P.C.
9085 EAST MINERAL CIRCLE
SUITE 200
CENTENNIAL CO 80112

UNITED STATES 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

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

COPY MAILED

MAR 17 2004

OFFICE OF PETITIONS

In re Application of
Moon et al.
Application No. 10/286,473
Filed: November 1, 2002
Attorney Docket No. 3006.01US02

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 9, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 23, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 24, 2003. A Notice of Abandonment was mailed on January 22, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 8

BLAKELY SOKOLOFF TAYLOR & ZAFMAN/PDC
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

COPY MAILED

JUN 17 2003

OFFICE OF PETITIONS

In re Application of Martin, et al. Application No. 10/286,509 Filed: October 31, 2002 Attorney Docket No. 3399P093	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(f), filed May 14, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on October 31, 2002 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On December 11, 2002, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on December 31, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

The petition fee of $1,300 has been refunded to Deposit Account No. 02-2666.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A corrected filing receipt indicating a projected publication date of September 18, 2003 accompanies this decision.

The application file is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Phil Coulthard	: DECISION ON REQUEST FOR
Patent Number	: 7617222	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/286,560	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1823** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Eric Klinker	: DECISION ON REQUEST FOR
Patent Number	: 7668966	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/286,576	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1784** 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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ALEXANDRIA, VA 22313-1450
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032004

Law Office of Donald J. Pagel
586 N. First Street, Suite 207
San Jose, CA 95112

MAR 31 2004

In re Application of:
Mark J. Beck et al.
Serial No.: 10/286,578
Filed: November 1, 2002
For: RADIAL POWER MEGASONIC TRANSDUCER

DECISION ON PETION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed November 24, 2003, to make the above-identified application special.

The petition 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 VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a petition fee of $130.00, (b) a statement that all claims are directed a single invention and an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/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 he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

It is noted that the examiner has determined that the claims are directed to two patentably distinct inventions and a restriction requirement was mailed on March 4, 2004. Since the restriction requirement has been made in writing, applicant is required to promptly submit a reply indicating that claims 1through 18 are elected without traverse.

Henley Phan

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

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DEC 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Adam Tartar Richardson	:	
Application No. 10/286,590	:	NOTICE
Filed: November 1, 2002	:	
Attorney Docket No. 204694-00162	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Terri Johnson at (571) 272-2991.

Ramesh Krishnamurthy

for Chris Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
One Financial Center
Boston MA 02111

In re Application of	:	
Wang et al.	:	
Application No. 10/286,591	:	DECISION ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. 24794-017	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed December 23, 2008, 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 September 25, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 25, 2008.

Petitioner asserts that the Notice dated June 25, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner' statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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 2619 technical support staff for **re-mailing** the Notice of Allowability (erroneously labeled "supplemental," and mailed June 23, 2008) and the Notice of Allowance and Fee(s) Due of June 25, 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.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

SPE H. Bennett

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/5/06

TO SPE OF : ART UNIT 3743

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/286,592 Patent No.: 6957500

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: _____

S. Bianco
SPE

3772 (formerly 3743)
Art Unit

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Paper No. 57

Hazim Ansari, Esq.
AdVantage Partners IP, LLC
Suite 102
5820 Oberlin Dr.
San Diego, CA 92121

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MAR 2 3 2004

OFFICE OF PETITIONS

In re Application of
Backus, et al.
Application No.: 10/286,621
Filed: November 2, 2002
Attorney Docket No: 49002/HHA/A641

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed March 8, 2004.

The petition under 37 CFR 1.137(b) is **granted**.

On December 10, 2002, a "Notice to File Corrected Application Papers " was mailed by the Office allowing a two month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). No response was noted as being received within in the allowable period and the application became abandoned on February 11, 2003. A Notice of Abandonment was mailed on January 20, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The person signing the instant petition requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The replacement abstract and preliminary amendment filed March 8, 2004, are noted.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
William J. Kolegraff
3119 Turnberry Way
Jamul, CA 91935

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MILLIKEN & COMPANY
P O BOX 1927
SPARTANBURG, SC 29304

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OFFICE OF PETITIONS

In re Application of	:
Brian G. Morin et al	:
Application No. 10/286,622	: DECISION GRANTING PETITION
Filed: November 2, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5514	:

This is a decision on the petition, filed August 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 3, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1774 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement filed on July 16, 2004.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

2 2 MAY 2003

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BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of AROUSSI et al. Serial No.: 10/286,623 Filing Date: 01 November 2002 Attorney Docket No.: A35532-A For: PLANAR LIGHT SHEET PROBES	: : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This application is before the PCT Legal Office for consideration of applicant's petition to revive under 37 CFR 1.137(b) filed on 01 November 2002.

On 27 April 2001, applicant filed international application PCT/GB01/01860, which claimed priority of an earlier US application filed 27 April 2000. A Demand was filed; consequently, the deadline for entry into national stage expired thirty months after the priority date or by midnight on 27 October 2002. Thereafter, the application went abandoned for failure to enter national stage in the U.S. before the expiration of the thirty month period.

On 01 November 2002, applicant filed a petition to revive which was accompanied by a request for filing application under Rule 53(a), (b)& (f). The following language was inserted before the first line of the specification, which was amended to read: "This is a Continuation of an International Application No. PCT/GB01/01860 filed April 27 2001...". The application was assigned serial no. 10/286,623 and treated as a filing under 35 U.S.C. 111.

DISCUSSION

The transmittal letter filed on 01 November 2002 did not identify the application as a national stage application being filed under 35 U.S.C. 371 but requested filing under 37 CFR 1.53(b) as a continuation application of pending international application PCT/GB01/01860. The application is considered filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 01 November 2002 were properly accepted as a filing under 35 U.S.C. 111(a). Since the application is deemed to have been filed under 35 U.S.C. 111(a), international application PCT/GB01/01860 became abandoned as to the United States of America after midnight on 27 October 2002 for failure to pay the basic national fee.

On 01 November 2002, applicant also filed a petition under 37 CFR 1.137(b) to revive

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international application PCT/GB01/01860 as to the United States abandoned under 35 U.S.C. 371(d). The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c).

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicants' statement that "the entire delay in filing the accompanying application was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

International application PCT/GB01/01860 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 10/286,623.

The specification and claims filed on 01 November 2002 complete the requirements for a filing date under 35 U.S.C. 111(a). Accordingly, this application will be accorded a filing date of 01 November 2002.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/286,623) and the international application (PCT/GB01/01860) designating the United States were copending on 01 November 2002. Applicant has obtained benefit of the earlier international application, with the amendment of the beginning of the specification of this application by inserting a proper reference to the parent international application. As stated above, applicant has amended the first line of the specification to read: "This is a Continuation of an International Application No. PCT/GB01/01860 filed 27 April 2001...".

CONCLUSION

Applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to Office of Initial Patent Examination for further processing as an application filed under 35 U.S.C. 111(a), having a filing date of 14 February 2003. The application will then be examined in due course.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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Telephone: (703) 306-5467

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NEW YORK, NY 10112-4498

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In re Patent No. 6,762,827	:	
Issued: July 13, 2004	:	
Application No. 10/286,623	:	NOTICE
Filed: November 1, 2002	:	
Atty Docket No. A35532-A	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No. 6

Merchant & Gould, PC
P. O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Kristian Berg , et al.	:	
Application No. 10/286,632	:	DECISION GRANTING
Filed: November 1, 2002	:	PETITION
Attorney Docket No. 7885.42USC2	:	

This is a decision on the petition filed February 25, 2003, requesting that the above-identified application be accorded a filing date of November 1, 2002, rather than the presently accorded date of November 4, 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 November 1, 2002. In support, the petition is accompanied by a copy of Express Mail receipt No. EV168364050US, showing a "MINNEAPOLIS MN USPS 55401" receipt stamp dated November 1, 2002. The same Express Mail receipt number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated November 1, 2002 on the cover page for the application papers.

In view of the USPS receipt stamp of November 1, 2002, appearing on the same Express Mail label, it is concluded that the application was deposited as "Express Mail" with the USPS on November 1, 2002.

Petitioner has submitted a fee of $130 for the instant petition. Since the error occurred on the part of the USPTO, the petition fee is unnecessary and will be credited to petitioner's deposit account in due course.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of November 1, 2002.** Thereafter, the application file will be forwarded to Technology Center 1600 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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/286,635	10/31/2002	Otto K. Sievert	10014122 -1	5646

7590 03/03/2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER
MOUTTET, BLAISE L

ART UNIT	PAPER NUMBER
2853	

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H·A

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Paper No. 20050211

Appl No.: 10/286,635
Applicant: Sievert et al
Filed: 10/31/2002

DECISION ON PETITION UNDER *37 CFR 1.148b***on Correction of Inventorship**

This is a decision on the "Petition under 37 CFR 1.48b" filed August 8, 2003, to add the following inventors: Padmanabhan Ramchandran, Joseph E. Powell, and Steve T. Breidenbach.

The petition is GRANTED.

The inventive entity is therefore Otto Kenneth Sievert, Gregory D. Nelson, Robert D. Blanton, Shawn Britt Nielson, Patrick James Chase, Michael B. Hall, Padmanabhan Ramchandran, Joseph E. Powell, and Steve T. Breidenbach.

The application is being forwarded to the publications for further action.

Stephen D. Meier
Supervisory Patent Examiner,
Art Unit 2853