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Paper No. 10

WOOD PHILLIPS KATZ CLARK & MORTIMER
500 WEST MADISON STREET, SUITE 3800
CHICAGO, IL 60661

COPY MAILED

DEC 16 2003

OFFICE OF PETITIONS

In re Application of	:
Jan Erik Jansson	:
Application No. 10/286,651	: DECISION GRANTING PETITION
Filed: November 1, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. SO18226P0120US-1747. 12010	:

This is a decision on the petition, filed December 10, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination).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

Petitioner is advised that the issue fee paid on 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 3673 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

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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

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DEC 16 2003
OFFICE OF PETITIONS

Date : December 16, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/286,651**

Applicant(s) : Jan Erik Jansson
Application No. : 10/286,651
Filed : November 1, 2002

The above-identified application has been assigned Patent No. 6,669,409 and an issue date of December 30, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 30, 2003:

"All reference to Patent No. 6,669,409 to Jan Erik Jansson of California for REVETMENT USEFUL TO LINE STREAM BED AND ASSEMBLY OF SAID REVETMENTS appearing in the Official Gazette of December 30, 2003 should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. 7

HAZIM ANSARI, ESQ.
ADVANTAGE PARTNERS IP, LLC
SUITE 102
5820 OBERLIN DRIVE
SAN DIEGO, CA 92121

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MAR 1 7 2004

OFFICE OF PETITIONS

In re Application of
Backus et al.
Application No. 10/286,656
Filed: November 2, 2002
Attorney Docket No. 49004/HHA/A641

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 8, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed December 20, 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 21, 2003. A Notice of Abandonment was mailed on January 30, 2004.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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. Accordingly, the change of correspondence address filed March 8, 2004, cannot be accepted because it was not signed by an attorney of record. See MPEP §§ 601.03 and 405. While a courtesy copy of this decision is being mailed to the address listed on the petition, the Office will mail all future correspondence solely to the address of record.

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

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

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

cc: WILLIAM J. KOLEGRAFF
3119 TURNBERRY WAY
JAMUL, CA 91935

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/286,672	11/01/2002	Juan Fernandez De la Mora	26068-02A	4896

7590 09/21/2005

Arthur G. Schaier
Carmody & Torrance LLP
50 Leavenworth Street
P.O. Box 1110
Waterbury, CT 06721-1110

EXAMINER
BERMAN, JACK I

ART UNIT	PAPER NUMBER
2881	

DATE MAILED: 09/21/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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In re Patent No. DE LA MORA ET AL.	:	
Issue Date: September 07, 2004	:	**DECISION GRANTING**
Appl No.: 10/286,672	:	**PETITION**
Filed: November 01, 2002	:	*37 CFR 1.324*
For:	:	
METHOD AND APPARATUS TO INCREASE THE RESOLUTION AND WIDEN THE RANGE OF DIFFERENTIAL MOBILITY ANALYZERS (DMAS)	:	

This is a decision on the petition under 37 CFR 1.48, filed July 16, 2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

John R. Lee
Supervisory Patent Examiner
Art Unit 2881
Patent Examining Group 2881

Arthur G. Schaier
Carmody & Torrance LLP
50 Leavenworth Street
P.O. Box 1110
Waterbury, CT 06721-1110

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Patent Counsel
Applied Materials, Inc.
Legal Affairs Department
P. O. Box 450A
Santa Clara, CA 95052

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of :
Yan Du, et al. :
Application No. 10/286,676 : ON PETITION
Filed: October 31, 2002 :
Attorney Docket No. AM-7629 :

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2800.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/286,683	11/01/2002	Geoffrey D. Hietpas	LP4830 US CIP

CONFIRMATION NO.
4378

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

Date Mailed: January 4, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ■ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam

Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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Paper No. 5

Stephen C. Durant
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105

MAILED

OCT 20 2003

Technology Center 2100

In re Application of:	)	
Michael Nicolaidis	)	
Application No. 10/286,686	)	**DECISION ON REQUEST FOR**
Filed: November 1, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: A RECONFIGURATION DEVICE FOR A FAULTY MEMORY	)	

This is a decision on the Request To Withdraw from Representation filed August 22, 2003.

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

The request filed August 22, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

JM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: BASINSKI & ASSOCIATES
113 San Nicolas Avenue
Santa Barbara, CA 93109

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

Peter M. Klett
Intellectual Property Law
Dept.
IBM Corporation
P.O. Box 218
Yorktown Heights NY 10598

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of :
Dacier et al. : DECISION ON PETITION
Application No. 10/286,708 :
Filed: October 31, 2002 :
Atty Docket No. CH920010042US1:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR §1.137(b) filed October 5, 2007.

The petition is **DISMISSED**.

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

The above-identified application became abandoned effective October 19, 2006 for failure to file a timely reply to the final Office action mailed July 18, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). A courtesy Notice of Abandonment was mailed on June 18, 2007.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to

revive an abandoned application or a lapsed patent. A petition filed 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 Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition includes a proposed reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required. However, the instant petition does not satisfy requirement (1) above.

As stated in MPEP 711.03(c),

A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(A) a Notice of Appeal and appeal fee;
(B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
(C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or

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

The amendment submitted does not place the application in condition for allowance. In view thereof, the petition must be dismissed. A courtesy copy of the Advisory Action is enclosed.

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

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

By FAX: (571) 273-8300
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Courtesy Copy of Advisory Action (1 page)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/286,708	Applicant(s) DACIER ET AL.	
	Examiner JASON D. CARDONE	Art Unit 2145	

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

THE REPLY FILED 05 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 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

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

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145

Jason D Cardone
SPE
Art Unit: 2145

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Paper No.

Peter M. Klett
Intellectual Property Law
Dept.
IBM Corporation
P.O. Box 218
Yorktown Heights NY 10598

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APR 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Dacier et al.	:	DECISION ON PETITION
Application No. 10/286,708	:	and
Filed: October 31, 2002	:	**NOTICE OF NONACCEPTANCE**
Atty Docket No. CH920010042US1	:	**OF CHANGE OF**
	:	**CORRESPONDENCE ADDRESS**

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. §1.137(b) filed April 8, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned effective October 19, 2006 for failure to file a timely reply to the final Office action mailed July 18, 2006. A courtesy Notice of Abandonment was mailed on June 18, 2007.

By decision mailed March 14, 2008, the initial PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR §1.137(b) filed October 5, 2007 was dismissed. The petition did not include a proposed reply sufficient for granting the petition to revive.

In response, the instant renewed petition was timely filed. On renewed petition, petitioner submits a proposed reply in the form of a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment). This reply is sufficient to satisfy the reply requirement of 37 CFR 1.137(b). Petitioner previously paid the petition fee and made the

required statement of unintentional delay. Petitioner has now met all requirements for revival of this application pursuant to 37 CFR 1.137(b).

Accompanying this petition was a change of correspondence address and authorization to act in a representative capacity both signed by patent practitioner Eustus Nelson. As stated in the authorization to act in a representative capacity, an attorney acting in a representative capacity may not sign a power of attorney or request a change of correspondence address. The record does not establish that practitioner Nelson is more than an attorney acting in a representative capacity. Practitioner Nelson states that she is authorized to conduct interviews and has the authority to bind the principal concerned. However, a proper 3.73(b) statement is not enclosed or of record. In order for patent practitioner Nelson to take action on behalf of an assignee, she must both establish ownership and show that she is authorized to act on behalf of the assignee. There has been no submission of documentary evidence of ownership or submission of a statement specifying where such documentary evidence is recorded in the Office. Further, her showing that she is authorized to act on behalf of the assignee should specifically identify the assignee (e.g., not be directed generally to the "principal concerned"). See 37 CFR 3.73(b)(1). A proper form for making the 3.73(b) statement is available under patents/forms at www.uspto.gov.

It is further noted that with respect to the power of attorney, regardless of any showing of authority to take such action in this application, the power of attorney would not be accepted. By the limitations of authority set forth for the attorneys named in the request, it appears that practitioner Nelson is attempting to name associate attorneys. As stated in MPEP 402.02, effective June 25, 2004, the associate power of attorney practice was eliminated. The Office no longer accepts a power of attorney signed by a principal to name an associate power of attorney. An appointment of an associate power of attorney filed on or after June 25, 2004 will not be accepted.
§ 406.

Accordingly, neither the change of correspondence address nor the appointment of associate attorneys have been entered. Any correspondence from the USPTO will continue to be mailed to the correspondence address currently of record until such time as a proper change of correspondence address is filed and entered.

Technology Center AU 2145 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed April 8, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper 6

BOTKIN & HALL, LLP
105 E. JEFFERSON BLVD.
SUITE 400
SOUTH BEND IN 46601

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of
Ross Weldy
Application No. 10/286,711
Filed: November 4, 2002
Attorney Docket No: **1065-003**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed July 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 11, 2003, for failure to timely reply to the Notice to File Corrected Application Papers mailed on December 10, 2002, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment. Accordingly, a Notice of Abandonment was mailed June 1, 2004.

Receipt of the replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 is acknowledged.

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

---

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

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

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

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

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

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BOTKIN & HALL, LLP
105 E. JEFFERSON BLVD.
SUITE 400
SOUTH BEND IN 46601

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
Ross Weldy :
Application Number: 10/286711 :
Filing Date: 11/04/2002 :
Attorney Docket Number: 1065-003 :

DECISION ON PETITION

This is a decision on the petition filed on November 8, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 6, 2007, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on July 5, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on November 9, 2007.

Receipt of the issue and publication fees is acknowledged.

---

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

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

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

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

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

This application is being referred to the Office of Patent Publications for processing into a patent.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Doc Code: PET.AUTO
Doc Description: Petition Automatically granted by EFS

OIPE IAP78
APR 07 2008
PATENT & TRADEMARK OFFICE

PTO/SB/130 (03-08)
Approved for use through 04/30/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	10/286,711	Confirmation Number		Filing Date	2002-11-04
Attorney Docket Number (optional)	1065-003	Art Unit	3612	Examiner	JOSEPH PAPE
First Named Inventor	ROSS WELDY				
Title of Invention	TONNEAU COVER				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
ROSS		WELDY	

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 format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	Michael A. Myers	Date (YYYY-MM-DD)	2008-04-03
Name	MICHAEL A. MYERS	Registration Number	38693

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Patent Publication
APR 09 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Tomokazu Kake et al	:	
Application No. 10/286,731	:	DECISION GRANTING PETITION
Filed: October 31, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 73960 [SC 70001US]	:	

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 April 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) 272-3218.

This matter is being referred to Technology Center AU 3713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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

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

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MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Ueda et al.	:	
Application No. 10/286,750	:	DECISION GRANTING
Filed: November 4, 2002	:	PETITION
Attorney Docket No. 1560-0384P	:	

This is a decision on the petition filed February 13, 2003, to establish that page 36 of the specification was part of the originally filed application.

On November 4, 2002, the application was filed.

On December 13, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 4, 2002, and advising applicants that page 36 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 36 of the specification was deposited on November 4, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 105 pages of specification on November 4, 2002.[1] Petitioner has also submitted a copy of the missing documentation- page 36 of the specification. A manual count of the pages of specification in the file indicates the presence of 104 pages. Therefore, petitioner has established that a single page has been misplaced by the Office.

Upon review of the record, page 36 deposited on November 4, 2002, has not been located. However, the evidence is convincing that the application papers deposited on November 4, 2002, included page 36, and that page 36 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 36 of the specification submitted with the petition will be used for examination purposes.

The petition fee will be credited to petitioner's deposit account.

The Notice mailed December 13, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 4, 2002, using the application papers filed on November 4, 2002, and the copy of page 36 of the specification filed on February 13, 2003.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Tomohiro UEDA, et al.
Application Serial No.: 10/286,750
Filed: November 4, 2002
For: **HIGH-EFFICIENCY ENCODER AND VIDEO INFORMATION RECORDING/REPRODUCING APPARATUS**

DECISION
ON PETITION

This is a decision on the petition, filed on August 26, 2005 under 37 C.F.R. §1.181 requesting an expedited action on the merits. This petition has been considered a request to affirm that this application is under "special" status in accordance with 37 CFR 1.102.

Applicant has amended this instant application on November 4, 2002 to contain specific reference to earlier filed applications, e.g., SN. 09/271,458, filed March 18, 1999 which is a divisional of SN 09/113,287 (Patent No. 5,909,252) filed July 10, 1998 and that is a divisional of 08/559,488 filed on November 15, 1995 (Patent No. 5,841,474) which is a divisional of 08/011,243 filed January 29, 1993 (Patent No. 5,479,264).

708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, <u>including those which, by relation to a prior United States application, have an effective pendency of more than 5 years</u>. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications which by relation to a prior United States application and pending over 5 years, are considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy.

Accordingly, the petition is **<u>Granted</u>**.

The examiner will be notified that this application should be considered as "special" and appropriate for expedited action.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUITE 2100 - 1075 WEST GEORGIA STREET
VANCOUVER, BRITISH COLUMBIA V6E 3G2
CANADA

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Kuldip Randhawa	:	
Application No. 10/286,785	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. 24752-6	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on March 3, 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 May 20, 2005. A Notice of Abandonment was mailed on January 6, 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**.

Since Finance records show that the above fees were previously submitted on September 27, 2005, the duplicate payment of the issue fee ($700) and publication fee ($300), filed March 3, 2006, will be refunded back to petitioner's credit card.

This application file is being referred to the Office of Publications for processing 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/286,800	11/04/2002	Gadi Mazuz	MP1456	5348

64768 7590 04/01/2009
MARSHALL, GERSTEIN & BORUN, LLP (MARVELL)
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

EXAMINER
AVERY, JEREMIAH L

ART UNIT	PAPER NUMBER
2431	

MAIL DATE	DELIVERY MODE
04/01/2009	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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Gregory E. Stanton
Marshall, Gerstein & Borun LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

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APR 01 2009

TECHNOLOGY CENTER 2100

In re Application of:
Gadi Mazuz et al.
Application No. 10/286800
Filed: November 4, 2002
For: Cipher implementation

DECISION ON PETITION TO RE-INSTATE APPEAL

This is a decision on the petition filed on August 14, 2008, requesting to re-instate the appeal and notice of appeal fee paid on June 15, 2007 be applied to the present submission. A new notice of appeal, a new pre-appeal brief request for review and a statement in support of the new pre-appeal brief request for review were filed on August 14, 2008.

MPEP § 1204(I) states in part that:

> Under 37 CFR 41.31(a)(1), an applicant for a patent dissatisfied with the primary examiner's decision in the second rejection of his or her claims may appeal to the Board for review of the examiner's rejection by filing a notice of appeal and the required fee set forth in 37 CFR 41.20(b)(1) within the time period provided under 37 CFR 1.134 and 1.136. A notice of appeal may be filed after any of the claims has been twice rejected, regardless of whether the claim(s) has/have been finally rejected ...

MPEP § 1204.01 states in part that:

> If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37. Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal ...

Pursuant to MPEP § 1204(I) and § 1204.01, applicant can reinstate an appeal after prosecution is reopened, since the claims submitted on April 15, 2008 have been twice rejected, respectively April 15, 2008 and September 17, 2007, on the same ground of rejections.

For the above stated reasons, the petition is **GRANTED.**

Thus, the Pre-Appeal Brief filed on August 14, 2008 will be entered and the previously paid appeal fees set forth in 37 CFR § 41.20 for filing a Notice of Appeal will be applied to the new appeal on this application.

Please note the decision of the Pre-Appeal Brief Review of February 3, 2009.

Any inquiry concerning this decision should be directed to Tod Swann whose telephone is (571) 272-3612.

Tod Swann, WQAS
Technology Center 2400

#5
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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APR 24 2003

OFFICE OF THE DIRECTOR
TC 3600

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re application of
Joseph Offutt et al.
Application No. 10/286,891
Filed: November 4, 2002
For: METHODS, SYSTEMS, AND ARTICLES OF MANUFACTURE FOR PROVIDING PRODUCT AVAILABILITY INFORMATION

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on December 5, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. The delay in treating this request is sincerely regretted.

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

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of April 14, 2003.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl: 4/22/03

Cc: Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, N.W.
Washington, DC 20005-3315

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of
Hiroshi Sakai et al.
Application No. 10/286,899
Filed: November 4, 2002
Attorney Docket Number: 99USFP388-M.0.CON

ON PETITION

This is a decision on the petition filed March 14, 2007, to withdraw the holding of abandonment, which is treated 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 on January 3, 2006 after the applicant failed to file a timely response to the Restriction Requirement mailed November 29, 2005. Accordingly, a Notice of Abandonment was mailed January 24, 2007.

Petitioner points to a October 16, 2003 Correspondence Address Indication Form to associate Customer No. 21254 with several applications of which the instant application was included. The file doesn't show however that the address for customer number 21254 was associated with the instant application in accordance with the October 16, 2003 request.

In view of the above, the evidence submitted corroborates non-receipt of the Restriction Requirement. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

The file is being forwarded to Technology Center 2617 for the remailing of the non-Final Office Action originally mailed on November 29, 2005. Telephone inquiries concerning the remailing of the non-Final Office Action should be referred to the Technology Center. All other inquiries regarding this decision 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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Paper No. 8

GARY HERONEME
313 E. HIGH STREET
REDLANDS, CA 92374

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DEC 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Gary Heroneme :
Application No. 10/286,938 :
Filed: November 2, 2002 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 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 Corrected Application Papers 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.

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

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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Alexandria, VA 22313-1450
www.uspto.gov

James E. Harris
P.O. Box 160967
Austin, TX 78716

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OFFICE OF PETITIONS

In re Application of	:	
Shivi Fotedar	:	
Application No. 10/286,957	:	DECISION ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 35399.46	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 09 January 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 29 May 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 30 August 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to office action mailed on 29 May 2007, (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 2619 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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Alexandria, VA 22313-1450
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JUN 29 2009

OFFICE OF PETITIONS

JAMES E. HARRIS
P.O. BOX 160967
AUSTIN TX 78716

In re Application of	:	
Shivi Fotedar	:	
Application No. 10/286,957	:	DECISION ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 35399.46	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2009, 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 June 13, 2008. 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 September 14, 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 that prima facie places the application is condition for allowance, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Newton Edwards at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 2419 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

In re Application of	:	
Robert John Satterthwaite	:	
Application No. 10/286,969	:	ON PETITION
Filed: July 25, 2002	:	
For: MULTI-PURPOSE AMBIO-UNIT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 20, 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 15, 2004, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed August 27, 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 21, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b)

must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1), (2), and (3) above.

As to item (1), petitioner has not submitted an amendment that *prima facie* places the application in condition for allowance. The required reply to the final Office action must be an amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal and the requisite fee, or a request for continued examination (RCE). A courtesy copy of the Advisory Action is enclosed.

As to item (2), the fee for a petition to revive under the unintentional standard of 37 CFR 1.137(b) for a small entity is $750. With the present petition, petitioner has submitted $665. Accordingly, a consideration on the merits of the present petition cannot be made until the $85 fee deficiency is submitted to the Office.

As to item (3), 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. A petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) is attached.

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

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

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

Attachments: Courtesy copy of the Advisory Action
PTO/SB/64

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/286,969	SATTERTHWAITE, ROBERT JOHN	
	Examiner	Art Unit	
	Janet M. Wilkens	3637	

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

THE REPLY FILED 28 January 2005 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 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)). below
4. ☒ The amendments are not in compliance with 37 CFR 1.121. See ~~attached Notice of Non-Compliant Amendment (PTOL-324)~~.
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-11.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☒ Other: : the amendment to the claims filed January 28, 2005 fails to comply with the revised amendment practice of 37 CFR 1.121. Namely, the text of canceled claims must not be present in an amendment (see claims 8-13). Furthermore, amended claims must include markings to indicate the changes that have been made relative to the immediate prior version of that claim (see claims 1-7) . .

J. M. Wilkens
JANET M. WILKENS
PRIMARY EXAMINER
AU 3637

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ROBERT SATTERTHWAITE
U.S. POST OFFICE
FOXCHASE STATION
P.O. BOX 24707
PHILADELPHIA, PA 19111

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OCT 1 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert John Satterthwaite	:	
Application No. 10/286,969	:	ON PETITION
Filed: July 25, 2002	:	
For: MULTI-PURPOSE AMBIO-UNIT	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 3, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 20, 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 15, 2004, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed August 27, 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 21, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply

from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1) and (3) above.

As to item (1), the amendment submitted on August 15, 2005 does not *prima facie* places the application in condition for allowance. The required reply to the final Office action must be an amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal and the requisite fee, or a request for continued examination (RCE). A courtesy copy of the Advisory Action is enclosed.

As to item (3), petitioner must submit a statement that the entire delay in filing the required reply from the due date for the reply until of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

By fax: (571) 273-8300

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

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

Attachments: Courtesy copy of the Advisory Action
Notice of Non-Compliant Amendment (37 CFR 1.121)

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 Satterthwaite
U.S. Post Office
FoxChase Station
P.O. Box 24707
Philadelphia, Pa 19111

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JUL 2 0 2006

OFFICE OF PETITIONS

In re Application of
Satterthwaite
Application No. 10/286,969
Filed: Jan. 25, 2002

DECISION DISMISSING PTA
RECONSIDERATION

This decision is in response to applicant's REQUEST FOR CONSIDERATION OF PATENT TERM ADJUSTMENT on November 8, 2005 requesting that the Office review the amount of PTA due tothe rather lengthy Patent prosecution.

Applicant's letter regarding PTA is **DISMISSED.**

Applicant's request is dismissed for multiple reasons:

1) Presently, the application is abandoned;

2) The filing of the Petition is premature because the PTA will not be determined until the Office issues a notice of allowance;

3) The petition under 37 CFR 1.705(b) must be filed after the mail date of the notice of allowance and prior to or with payment of the issue fee; and

4)Applicant did not pay the required petition fee under 37 CFR 1.18(e).

After the mailing of this decision, the Office of petitions will also determined the petition to revive the application.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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U. S POST OFFICE
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P.O. BOX 24707
PHILADELPHIA, PA 19111

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JUL 21 2006

OFFICE OF PETITIONS

In re Patent of	:	
Robert John Satterthwaite	:	
Application No. 10/286,969	:	DECISION
Filed: July 25, 2002	:	ON PETITION
For: MULTI-PURPOSE AMBIO-UNIT	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed November 21, 2005. The delay in treating this petition is regretted.

The petition is **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 20, 2004. The Office action set a three (3) month period for reply. Applicant filed a reply in the form of an amendment on July 15, 2004; however, the amendment failed to place the application in condition for allowance. Applicant was so notified in Advisory Actions mailed August 27, 2004. No complete and proper reply having been filed, this application became abandoned on July 21, 2004. A Notice of Abandonment was mailed October 27, 2004.

Applicant filed a petition to revive the application, along with an amendment, on January 26, 2005 and August 3, 2005; however, both petitions were dismissed in Decisions mailed June 6, 2005 and August 12, 2005 respectively.

Both petitions were dismissed in part because Applicant failed to provide the required reply.

The instant (3rd) petition to revive

Applicant files the instant petition and again files an Amendment in response to the final Office action.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 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**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (1), Applicant has not submitted a proper reply to the Office action. The Amendment, filed with the instant petition, fails to place the application in condition for allowance.

Questions regarding the Amendment should be directed to the Examiner.

Finally, Applicant has attempted, unsuccessfully, to file three (3) amendments in response to the final Office action.

Applicant is advised that the required reply may also be met by the filing of a notice of appeal and the requisite fee; a Request for Continued Examination, or a continuing application.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. Therefore, it is extremely important that petitioner supply **a complete and proper reply to the Office action** with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT SATTERTHWAITE
U. S POST OFFICE
FOXCHASE STATION
P.O. BOX 24707
PHILADELPHIA, PA 19111

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of	:	
ROBERT SATTERTHWAITE	:	
Application No 10/286969	:	
Filing or 371(c) Date: 07/25/2002	:	ON PETITION
Title of Invention:	:	
MULTI-PURPOSE AMBIO-UNIT	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 20, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

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. **No extensions of time of this two (2) month period 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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 20, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on July 15, 2004; however, the reply failed to place the application in condition for allowance. Applicant was so notified in Advisory Actions mailed August 27, 2004. A Notice of Abandonment was mailed October 27, 2004.

Applicant filed petitions to revive the application on January 26, 2005; August 3, 2005 and November 21, 2005.

All three petitions were dismissed. Applicant failed to file the required reply.

In a Decision mailed July 21, 2006, Applicant was informed that he had attempted, unsuccessfully, to file three (3) amendments in response to the final Office action. Applicant was advised that the required reply may also be met by the filing of a Notice of Appeal and fee; a Request for Continued Examination, or a continuing application. Applicant was also advised that after a decision on the petition for reconsideration, no further reconsideration or review of the matter would be undertaken by the Director.

The present (4th) petition to revive

Applicant files the present renewed petition and a Notice of Appeal and submitted a check in the amount of $130.00 on October 23, 2006. The $130.00 check was returned by the bank because there were insufficient funds. Applicant subsequently submitted an additional $20.00 on January 19, 2007 in an effort to correct the deficient Notice of Appeal fee. The $20.00 is held in the Office as a partial payment.

Applicable Law, Rules and MPEP

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to item (1), Applicant has again failed to submit the required reply to the final Office action. The fee for filing a Notice of Appeal is **$250.00** for a small entity. **Applicant is given a non-extendable two (2) month period within which to file the correct Notice of Appeal fee, to wit – an additional $230.00.** Failure to timely and properly reply will result in denial of Applicant's petition. Thereafter, no further reconsideration or review will be undertaken by the Director.

Applicant is advised that a current fee schedule is available at www.uspto.gov/main/patents. Also available at our web site is a list of registered practitioners. Applicant is further advised that there are two Offices here available to provide assistance: the Office of Independent Inventors, at 703-306-5568; and the Patent Assistance Center, at 1-800-786-9199, for assistance in prosecuting his patent application.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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P.O. BOX 24707
PHILADELPHIA, PA 19111

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OFFICE OF PETITIONS

In re Application of	:	
ROBERT SATTERTHWAITE	:	
Application No 10/286969	:	
Filing or 371(c) Date: 07/25/2002	:	ON PETITION
Title of Invention:	:	
MULTI-PURPOSE AMBIO-UNIT	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 28, 2007, to revive the above-identified application.

This Petition is hereby granted.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 20, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on July 15, 2004; however, the reply failed to place the application in condition for allowance. Applicant was so notified in Advisory Actions mailed August 27, 2004. A Notice of Abandonment was mailed October 27, 2004.

Applicant filed petitions to revive the application on January 26, 2005; August 3, 2005 and November 21, 2005.

All three petitions were dismissed. Applicant failed to file the required reply.

In a Decision mailed July 21, 2006, Applicant was informed that he had attempted, unsuccessfully, to file three (3) amendments in response to the final Office action. Applicant was advised that the required reply may also be met by the filing of a Notice of Appeal and fee; a

Request for Continued Examination, or a continuing application. Applicant was also advised that after a decision on the petition for reconsideration, no further reconsideration or review of the matter would be undertaken by the Director.

The 4th petition to revive

Applicant filed a fourth petition and a Notice of Appeal and submitted a check in the amount of $130.00 on October 23, 2006. The $130.00 check was returned by the bank because there were insufficient funds. Applicant subsequently submitted an additional $20.00 on January 19, 2007 in an effort to correct the deficient Notice of Appeal fee. The $20.00 was held in the Office as a partial payment.

February 9, 2007 Decision dismissing the 4th petition

A Decision dismissing the fourth petition was mailed February 9, 2007. The Decision required the balance of the Notice of Appeal Fee.

The present (5th) petition

Petitioner files the present renewed petition and includes the balance of the Notice of Appeal fee.

Accordingly, the petition is granted. The application is being referred to Technology Center Art Unit 3621 to await the brief in support of appeal.

Applicant has two (2) months from the mailing date of this Decision to file an appeal brief. Extensions of time (AND FEE(S)) are available under 37 CFR 1.136(a). Accord, MPEP 1215.01

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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JJGJR.: 07-06

Paper No: __

ROTHWELL, FIGG,
ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Peng, et al.	:	
Application No. 10/286,972	:	DECISION
Filing Date: 4 November, 2002	:	
Attorney Docket No.: 2637-106	:	

This is a decision on the petition filed on 26 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 26 September, 2005, with reply due absent extension of time on or before Tuesday, 27, December, 2005;
- the instant application went abandoned after midnight 26 December, 2005;
- on 26 January, 2006, Petitioner submitted (with request and fee for extension of time) an

amendment after final, which is not of right–the Examiner found that it was not a proper reply,[1] and mailed an Advisory action on 21 April, 2006;

- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 26 May, 2006, Petitioner filed the instant petition with fee, a reply in the form of a Notice of Appeal and fee, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not

---

[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).)

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt,[7] 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.[8]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

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

CONCLUSION

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

The instant application is released to Technology Center 2600 to await Petitioner's filing of the Appeal Brief (with fee) within two (2) months of the mailing of this decision in concert with the regulations at 37 C.F.R. Part 41, and in particular at 37 C.F.R. §41.4, §41.37 and §41.66.

Extensions of time are available only on showing of good cause under 37 C.F.R. §41.4.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

---

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[8] 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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KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Ho-Sang Park :
Application No. 10/286,984 : ON PETITION
Filed: October 30, 2002 :
Attorney Docket No. DSPAT2.001 AUS :

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

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 9, 2005. A Notice of Abandonment was mailed on November 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an Election; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2621, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 7

D. CANNON
225 ROXBURY DR.
RIVERDALE, GA 30274

COPY MAILED

JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Cannon, De' Juana :
Application No. 10/287,009 :
Filed: December 15, 2002 :
Title: Bottle Pillow :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 8, 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 July 9, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 10, 2003. A Notice of Abandonment was mailed February 10, 2004.

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

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

---

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

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

The instant petition lacks items (1) and (2).

In regard to item (1), under 37 C.F.R. § 1.111, a request for reconsideration or further examination must be in writing and must satisfy the following five requirements. The reply must:

(1) distinctly and specifically point out the supposed errors in the examiner's action, **and**
(2) respond to every ground of objection and rejection in the prior Office action,
(3) appear to be a *bona fide* attempt to advance the case to final action, and
(4) clearly point out the patentable novelty of the claims in view of the state of the art disclosed by the references cited or objections made, and
(5) show how the amendments avoid such references or objections.

Although the drawings submitted were a required element in the response, petitioner must submit a document meeting the above requirements.

In regard to item (2), petitioner only submitted $55.00 towards payment of the petition fee. However, a petition under 37 C.F.R. § 1.137(b) for *unintentional* delay requires a $665.00 petition fee. The fee submitted on April 8, 2004 was the *unavoidable* delay fee. Accordingly, petitioner must submit an additional $610.00 to cover the petition fee.

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

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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Paper No. 9

COPY MAILED

JUL 1 2 2004

OFFICE OF PETITIONS

D. Cannon
225 Roxbury Dr.
Riverdale, GA 30274

In re Application of :
Cannon :
Application No. 10/287,009 :
Filed: December 15, 2002 :
For: Bottle Pillow :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 29, 2004, to revive the above-identified application.

The petition is **dismissed.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 9, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2003. A Notice of Abandonment was mailed on February 10, 2004.

Petitioner appears to be alleging two reasons for the failure to timely file a reply and for the delay in filing the instant petition:

(1) petitioner states, "I never received any copies by mail or fax of the office action dated July 9, 2003."

(2) petitioner has supplied a doctor's note stating, "Ms. Cannon was unable to work on her invention by providing necessary instructions from 6-03 through 12-03 because of a medical condition."

As to (1), a review of the Office action indicates it was mailed to the correct address. In general, the Office presumes properly addressed mail was be properly delivered. Therefore, petitioner should address the following issues: Had the mail been received during July of 2003, how would it have been handled and by whom? Is all mail regarding the instant application kept in one place? If yes, has that place been searched for the missing correspondence? Could petitioner have received the mail and lost it as a result of her medical condition?

As to (2), petitioner fails to list the nature of her medical condition and how it prevented her, if she received the Office action, from responding to the Office action prior to April 8, 2004, the date of the first petition. The doctor's note fails to address how the medical condition hampered petitioner and only states petitioner was unable to act up to December of 2003.

Petitioner should fully explain whether or not the mail was received and, to the extent relevant to the delay in responding to the Office action, the nature and extent of her medical condition since July of 2003.

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

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

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Paper No. 14

D. Cannon
225 Roxbury Dr.
Riverdale, GA 30274

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OCT 0 7 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cannon :
Application No. 10/287,009 :
Filed: December 15, 2002 :
For: Bottle Pillow :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed August 31, 2004, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b) filed July 22, 2004.

The petition under 37 CFR 1.137(a) is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 9, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2003. A Notice of Abandonment was mailed on February 10, 2004.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

Since the petition has been granted under 37 CFR 1.137(a) has been granted and petitioner has indicated an intent to withdraw the July 22, 2004 petition, petitioner's previous request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. A refund of the $665 petition fee will be scheduled.

The file is now being forwarded to Technology Center Art Unit 3632 for entry and consideration of petitioner's responses to the July 9, 2003 Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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FROM DIRECTORS OFFICE

NOV 2 2 2005

TECHNOLOGY CENTER 3600

D. Cannon
225 Roxbury Dr.
Riverdale GA 30274

In re Application of
Cannon, De' Juana
Application No. 10/287,009
Filed: December 15, 2002
For: BOTTLE PILLOW

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to the letters received October 3, 2005 and October 04, 2005. These letters are being treated as a petition to withdraw the holding of abandonment under 37 CFR 1. There is no fee for this petition

The petition is **DISMISSED**.

It is noted that the petition is not considered official correspondence, as it was not signed. Applicant's attention is drawn to 37 CFR 1.4 which recites that to be considered official correspondence an original signature is required. Therefore, the merits of applicant's petition will not be addressed.

However, it is noted that a review of the file record indicates that a Notice of Abandonment was mailed on September 13, 2005 indicating that the application was abandoned for failure to file a proper reply to the Office communication (Notice of Non-Compliant Amendment) mailed January 10, 2005, which set a one-month extendable response period. The Notice of Abandonment incorrectly identifies the Office communication as having been mailed February 11, 2005 but correctly reflects the one-month response period as expiring on February 10, 2005. The file record only shows a response date stamped February 11, 2005 by OIPE. This response was not accompanied by a petition for an extension of time and there is no authorization found in the file record to charge a deposit account for any necessary extensions of time. As such, the response fell outside of the one-month response period set forth in the Notice of Non-Compliant Amendment mailed January 10, 2005. As the six-month statutory response period for reply had since expired, the application was properly abandoned.

Further, it is noted that the reply received February 11, 2005 is not considered official correspondence, as it was not signed. Applicant's attention is drawn to 37 CFR 1.4 which recites that to be considered official correspondence an original signature is required. There is no record of any correspondence dated March 14, 2005 having been received

It appears that the applicant in this application is not aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to

consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined as attached.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $500. The fee for a petition under the unintentional standard is $1,500. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

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

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

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/bkg 11/15/05

ATTACHMENTS: New Central Fax Number
Certificate of Mailing and Certificate of Transmission procedures

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being deposited 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" on (date).

(Typed or printed name of the person signing this certificate)

(signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)___-____on (date).

(Typed or printed name of the person signing this certificate)

(signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted.
For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.
In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally** signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

NOTICE TO APPLICANT: In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.

NEW CENTRAL FAX NUMBER

Effective July 15, 2005

On July 15, 2005, the Central FAX Number will change to **571-273-8300.** This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and **571-273-8300** will be the only facsimile number recognized for "centralized delivery".

CENTRALIZED DELIVERY POLICY: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

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NOV 22 2005

TECHNOLOGY CENTER 3600

D. Cannon
225 Roxbury Dr.
Riverdale GA 30274

In re Application of
Cannon, De' Juana
Application No. 10/287,009
Filed: December 15, 2002
For: BOTTLE PILLOW

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

RECEIVED
OIPE/IAP
DEC 13 2005

This is in response to the letters received October 3, 2005 and October 04, 2005. These letters are being treated as a petition to withdraw the holding of abandonment under 37 CFR 1. There is no fee for this petition

The petition is **DISMISSED**.

It is noted that the petition is not considered official correspondence, as it was not signed. Applicant's attention is drawn to 37 CFR 1.4 which recites that to be considered official correspondence an original signature is required. Therefore, the merits of applicant's petition will not be addressed.

However, it is noted that a review of the file record indicates that a Notice of Abandonment was mailed on September 13, 2005 indicating that the application was abandoned for failure to file a proper reply to the Office communication (Notice of Non-Compliant Amendment) mailed January 10, 2005, which set a one-month extendable response period. The Notice of Abandonment incorrectly identifies the Office communication as having been mailed February 11, 2005 but correctly reflects the one-month response period as expiring on February 10, 2005. The file record only shows a response date stamped February 11, 2005 by OIPE. This response was not accompanied by a petition for an extension of time and there is no authorization found in the file record to charge a deposit account for any necessary extensions of time. As such, the response fell outside of the one-month response period set forth in the Notice of Non-Compliant Amendment mailed January 10, 2005. As the six-month statutory response period for reply had since expired, the application was properly abandoned.

Further, it is noted that the reply received February 11, 2005 is not considered official correspondence, as it was not signed. Applicant's attention is drawn to 37 CFR 1.4 which recites that to be considered official correspondence an original signature is required. There is no record of any correspondence dated March 14, 2005 having been received

It appears that the applicant in this application is not aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to

consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined as attached.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $500. The fee for a petition under the unintentional standard is $1,500. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

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

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

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/bkg 11/15/05

ATTACHMENTS: New Central Fax Number
Certificate of Mailing and Certificate of Transmission procedures

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being deposited 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" on (date).
>
> (Typed or printed name of the person signing this certificate)
>
> (signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)___-____on (date).
>
> (Typed or printed name of the person signing this certificate)
>
> (signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted.
For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.
In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally** signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

NOTICE TO APPLICANT: In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.

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OFFICE OF PETITIONS

D. Cannon
225 Roxbury Dr.
Riverdale GA 30274

In re Application of Cannon :
Application No. 10/287,009 : Decision on Petition
Filing Date: December 15, 2002 :
For: Bottle Pillow :

This is a decision on the petition filed March 28, 2006, which is being treated as a renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A Notice of Non-Compliant Amendment was mailed on January 10, 2005. The Notice gave petitioner a one-month, extendable time period to file a proper amendment.

The USPTO file indicates a reply was received on February 11, 2005.

Petitioner has submitted a printout from the USPS. The printout indicates that a piece of correspondence was mailed by certified mail by applicant and was received by a recipient in Alexandria, Virginia, on February 10, 2005.

The reply consists of five pages of changes to the claims. The reply does not include a signature.

A Notice of Abandonment was mailed on September 13, 2005.

Discussion:

The timeliness of the reply need not be determined since the reply was not signed. 37 CFR 1.4 requires papers filed with the Office to be signed.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a

grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

A discussion of 37 CFR 1.8 is attached. The Office recommends highly that all future correspondence include the Certificate discussed including the date mailed and signature.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form for petition under 37 CFR 1.137(b)
Discussion of 37 CFR 1.8

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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.

Under 37 CFR 1.8, a person may state on certain papers directed to the Office (exceptions are stated in 37 CFR 1.8), the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within the period for reply, the reply in most, but not all[1], instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure does not apply to papers mailed in a foreign country.

The Certificate of Transmission procedure, however, also applies to papers transmitted to the Office from a foreign country provided that the correspondence being transmitted is not prohibited from being transmitted by facsimile and is not otherwise precluded from receiving the benefits under 37 CFR 1.8.

A suggested format for a Certificate of Mailing and a Certificate of Transmission under 37 CFR 1.8 to be included with the correspondence is reproduced below. After signing the Certificate of Mailing/Transmission, a photocopy of the paper should be made and retained in case the paper is misplaced by the US Postal Service or USPTO and applicant is required to prove the date the paper was mailed or transmitted.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage on (put the DATE) as first class mail in an envelope addressed to:

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Typed or printed name of person signing this certificate

_____

Signature_____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571)272-8300) on (Date).

Typed or printed name of person signing this certificate

_____

Signature_____

---

[1]The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:.

(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under Section 1.53(d); ...

(B) The filing of correspondence in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail";

(C) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);

(D) The filing of an international application for patent;

(E) The filing of correspondence in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Preliminary Examining Authority;

(F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in Section 1.494(b) or Section 1.495(b).

PROCEDURE BY APPLICANT

(A) The certification requires a signature. Specifically, if the certification appears on a paper that requires a signature, two signatures are required, one for the paper and one for the certification. Although not specifically required by 37 CFR 1.8, it is preferred that the certificate be signed by the applicant, assignee, or registered practitioner.

(B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.

(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable.

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be supported by submitting a copy of a postcard receipt specifically identifying this sheet and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to MPEP Section 503 relative to the use of postcards as receipts.

(D) In situations wherein the correspondence includes papers for more than one application (e.g., a single envelope containing separate papers responding to Office actions in different applications) or papers for various parts of the Office (e.g., a patent issue fee transmittal form PTOL-85B and an assignment), each paper must have its own certification as a part thereof or attached thereto.

Although Form PTOL-85B, Issue Fee Transmittal Form, may contain a Certificate of Mailing thereon, a separate Certificate of Mailing is required for all papers included with this form, including formal drawings, since papers are separated and flow to different areas of the Office. Checks submitted with the papers do not require a separate certification.

(E) In situations wherein the correspondence includes several papers directed to the same area of the Office for the same application (for example, a proposed reply under 37 CFR 1.116 and a Notice of Appeal), each paper should have its own certification as a part thereof or attached thereto.

(F) For the purposes of 37 CFR 1.8(a)(1)(i)(A), first class mail is interpreted as including "Express Mail" and "Priority Mail" deposited with the U.S. Postal Service.

Alternatively, the correspondence may be submitted with a cover or transmittal letter which itemizes the papers and on which is placed the certificate under 37 CFR 1.8.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

D. Cannon
225 Roxbury Dr.
Riverdale GA 30274

COPY MAILED
MAY 3 1 2006
OFFICE OF PETITIONS

In re Application of Cannon :
Application No. 10/287,009 : Decision on Petition
Filing Date: December 15, 2002 :
For: Bottle Pillow :

This is a decision on the petition filed May 23, 2006, which is being treated as a renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

A Notice of Non-Compliant Amendment was mailed on January 10, 2005. The Notice gave petitioner a one-month, extendable time period to file a proper amendment.

In order to avoid abandonment, applicant was required to file a timely AND proper reply.

Petitioner filed a reply consisting of five pages of changes to the claims. The reply did not include a signature.

A Notice of Abandonment was mailed on September 13, 2005.

The Notice of Abandonment stated petitioner's reply was not timely.

The Notice of Abandonment stated petitioner's reply was not proper. Specifically, the Notice stated,

> [The reply] does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection.... The reply does not contain a claim in the proper form with proper status identifiers, and a remarks section setting out the applicant's arguments why the claim may be allowable.

Petitioner has supplied evidence establishing the reply was timely filed on February 10, 2005.

A review of the record indicates the reply was proper in so far as it was "a bona fide attempt to advance the application to final action."

The signature on the instant petition will be treated as a ratification of the amendment filed February 11, 2005.

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

Technology Center Art Unit 3632 will be informed of the instant decision. The examiner will treat the reply filed on February 11, 2005, as a bona fide reply within the meaning of 37 CFR 1.135(c).

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

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)
6,892,815	2005-05-17	10/287,017	2002-11-04	

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	/Larry G. Stolarczyk/	Date (YYYY-MM-DD)	2009-06-22
Name	Larry G. Stolarczyk		

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. 6892815
Issue Date: May 17,2005
Application No. 10287017
Filed: November 4,2002
Attorney Docket No. MLF 654-12

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

This is a decision on the electronic petition, filed June 22,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 22,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Juergen Roemisch et al	:	
Application No. 10/287,047	:	DECISION DISMISSING PETITION
Filed: November 4, 2002	:	UNDER 37 CFR 1.55(c) and
Attorney Docket No. 6478.1444-01	:	37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed May 24, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications, and under 35 U.S.C. § 119 for the benefit of the prior-filed foreign applications.

The petitions are **DISMISSED.**

The amendment submitted with the instant petition improperly includes the claim for benefit to the foreign applications to be included with the domestic priority in the first paragraph of the specification, which is not in compliance with 37 CFR 1.63(c)(2). Therefore, the foreign applications data should only be included in a substitute declaration or a proper ADS in compliance with 37 CFR 1.76. Additionally, in the declaration submitted with the instant petition it reference foreign German Application No. **19951336.4** filed November 6, 1998, whereas in the amendment filed with the instant petition it reference German Application No. **19851336.4**, filed November 6, 1998, clarification is required in a substitute declaration or an ADS.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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

ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES
231 SOMERVILLE ROAD
BEDMINSTER NJ 07921

COPY MAILED

AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Leonard B. Pearson	:	
Application No. 10/287,048	:	DECISION GRANTING PETITION
Filed: November 5, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 0036-1 CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of December 9, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3632.

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
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Edward M. Livingston, Esq.
963 Trail Terrace Drive
Naples, FL 34103

Paper No. 5

In re application of
Alan J. Lang
Application No. 10/287,050
Filed: November 1, 2002
For: BUSINESS METHOD INVOLVING A PRENEED CONTRACT TO COVER FUNERAL EXPENSES

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

This is a decision on the petition submitted on September 15, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age. The delay in deciding this petition is regretted.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a driver license from the applicant indicating that he is at least 65 years of age.

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

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

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

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

RAR/cps 10/29/03

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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DEC 12 2006
OFFICE OF PETITIONS

In re Patent No. 6,805,273
Issue Date: 10/19/2004
Application No. 10/287,066
Filing or 371(c) Date: 11/04/2002
Attorney Docket No. END-621

: DECISION DISMISSING PETITIONS
: UNDER 37 CFR § 1.78(a)(3)
: AND 37 CFR § 1.55(c)

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed August 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP01/03615, filed March 29, 2001. As it appears the petition is also requesting benefit of priority under 35 U.S.C. § 119(a)-(d) to German Application No. 10026683.5, filed May 30, 2000, the petition is also being treated as a petition under 37 CFR 1.55(c), to accept an unintentionally delayed claim for priority to the German application.

The petitions are **dismissed**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed international and foreign applications was made within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.55(a)(1)(i), and further failed to include a proper reference to the prior-filed international and foreign applications as required by 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(2)(iii) and 37 CFR 1.55(a)(1)(i).

As to the benefit claim under 37 CFR § 1.78(a)(3):

The instant application was filed November 4, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR § 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed international application after issuance of the application into a patent. *See* MPEP § 1481.

Where 35 U.S.C. §§ 120 and 365(c) priority based on an international application is to be asserted or corrected in a patent via a Certificate of Correction, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR § 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11);

(C) the patentee must submit together with the request for the certificate, copies of documentation showing designation of states and any other information needed to make it clear from the record that the 35 U.S.C. § 120 priority is appropriate (see MPEP § 201.13(b) as to the requirements for 35 U.S.C. § 120 priority based on an international application; and

(D) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR § 1.17(t), as required by 37 CFR § 1.78(a)(3).

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to amend the patent to make reference to a prior copending application, or to correct an incorrect reference to the prior copending application, for benefit claims under 35 U.S.C. §§ 120 and 365(c). Further, petitioner is advised that the reference to the prior filed PCT application must state the relationship to Application No. 10/287,066.

If any of the above-stated conditions is not satisfied, the filing of a reissue application (see MPEP § 1401 - § 1460) may be appropriate to pursue the desired correction of the patent for benefit claims under 35 U.S.C. §§ 120 and 365(c).

The petition fails to comply with (C) above.

Before the petition to accept the benefit of a late priority claim to the PCT application can be granted, petitioner must comply with (C) above, along with a renewed petition under 37 CFR § 1.78(a)(3).

As to the benefit claim under 37 CFR § 1.55(c):

The applicable rule, 37 CFR § 1.55(a)(2), requires that "[t]he claim for priority and the certified copy of the foreign application specified in 35 U.S.C. § 119(b) or PCT Rule 17 must, in any event, be filed before the patent is granted" [emphasis added].

A review of the application file reveals that no certified copy of the foreign application was filed in this application before the patent was granted. As such, Applicant may not claim the benefit of priority to the foreign application via a Certificate of Correction.

The MPEP 201.16 provides:

> In summary, a certificate of correction under 35 U.S.C. § 255 and 37 CFR § 1.323 may be requested and issued in order to perfect a claim for foreign priority benefit in a patented continuing application if the requirements of 35 U.S.C. 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the requirements of 37 CFR § 1.55(a) are met. Furthermore, if the continuing application (other than a design application), which issued as a patent, was filed

> on or after November 29, 2000, in addition to the filing of a certificate of correction request, patentee must also file a petition for an unintentionally delayed foreign priority claim under 37 CFR § 1.55(c). However, a claim to foreign priority benefits cannot be perfected via a certificate of correction if the requirements of 35 U.S.C. § 119(a)-(d) or (f) had not been satisfied in the patented application, or its parent, prior to issuance and the requirements of 37 CFR § 1.55(a) are not met. In this latter circumstance, the claim to foreign priority benefits can be perfected only by way of a reissue application in accordance with the rationale set forth in Brenner v. State of Israel, 158 USPQ 584.

In this instance, the above-identified application has no parent application, and the requirements of 37 CFR § 1.55(a) have not been met. As such, the claim to foreign priority benefits cannot be perfected via a Certificate of Correction, but only by way of a reissue application.

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

By mail: Mail Stop PETITIONS
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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 Derek Woods at (571) 272-3232.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 6,978,922
Issue Date: 12/27/2005
Application No. 10/287,067
Filing or 371(c) Date: 11/04/2002
Attorney Docket No. END-808

: DECISION DISMISSING PETITIONS
: UNDER 37 CFR § 1.55(c)

This is a decision on the Petition for Unintentionally Delayed Priority Claim in Accordance with 37 C.F.R. 1.55", filed August 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to German Patent Application No. 10158246, filed November 28, 2001. The petition is properly treated under 37 CFR 1.55(c).

The petitions are **dismissed**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed international and foreign applications was made within the time period set forth in 37 CFR 1.55(a)(1)(i), and further failed to include a proper reference to the prior-filed foreign application 37 CFR 1.55(a)(1)(i).

The applicable rule, 37 CFR § 1.55(a)(2), requires that "[t]he claim for priority and the certified copy of the foreign application specified in 35 U.S.C. § 119(b) or PCT Rule 17 must, in any event, be filed before the patent is granted" [emphasis added].

A review of the application file reveals that no certified copy of the foreign application was filed in this application before the patent was granted. As such, Applicant may not claim the benefit of priority to the foreign application via a certificate of correction.

The MPEP 201.16 provides

> In summary, a certificate of correction under 35 U.S.C. § 255 and 37 CFR § 1.323 may be requested and issued in order to perfect a claim for foreign priority benefit in a patented continuing application if the requirements of 35 U.S.C. 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the requirements of 37 CFR § 1.55(a) are met. Furthermore, if the continuing application (other than a design application), which issued as a patent, was filed on or after November 29, 2000, in addition to the filing of a certificate of correction request, patentee must also file a petition for an unintentionally delayed

> foreign priority claim under 37 CFR § 1.55(c). However, a claim to foreign priority benefits cannot be perfected via a certificate of correction if the requirements of 35 U.S.C. § 119(a)-(d) or (f) had not been satisfied in the patented application, or its parent, prior to issuance and the requirements of 37 CFR § 1.55(a) are not met. In this latter circumstance, the claim to foreign priority benefits can be perfected only by way of a reissue application in accordance with the rationale set forth in Brenner v. State of Israel, 158 USPQ 584.

In this instance, the above-identified application has no parent application, and the requirements of 37 CFR § 1.55(a) have not been met. As such, the claim to foreign priority benefits cannot be perfected via a certificate of correction, but only by way of a reissue application.

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

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

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions Office of Petitions

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Paper No. None

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin NJ 08830

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In re Application of	:	
R. Bharat Rao et al.	:	
Application No. 10/287,073	:	
Filed: November 4, 2002	:	DECISION ON PETITION
Attorney Docket No.	:	UNDER 37 C.F.R. §1.181(A)
2002P18302US	:	
Title: PATIENT DATA MINING FOR	:	
LUNG CANCER SCREENING		

This is a decision on the submission of September 7, 2006, which is properly treated as a petition pursuant to 37 C.F.R. §1.181(a).

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 January 30, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on May 1, 2006. A notice of abandonment was mailed on August 8, 2006.

With the present petition, Petitioner has set forth that the mailing was not received. The electronic file has been reviewed, and it is clear that the mailing was returned to the Office by the United States Postal Service.

However, it is noted that the final Office action was mailed to the address of record, which is "186 Wood Avenue South." This is the same address which appears on the transmittal sheet which

was presented on filing, as well as the declaration which was submitted on February 25, 2003. The address that appears on this petition however, is "170 Wood Avenue South."

It appears that at some point subsequent to the filing of this application, Petitioner's address changed, and Office records do not indicate that a Change of Address has ever been filed with the Office.

Applicant has not provided any indication as to if/when his office moved. Therefore, it appears that the Office action was properly mailed by this Office to the correspondence address of record, and Petitioner did not receive the Office action because he was no longer located at 186 Wood Avenue South. It is noted that the mailing was returned to the Office with the letters "RTS" writing on the envelope, which presumably stands for "Return To Sender." If Petitioner was no longer located at 186 Wood Avenue South, it stands to reason that the new tenant/property owner would return the mailing to the United States Postal Service, with an indication that the mailing should be returned to the sender.

Petitioner must clarify, on the record, why his return address differs from the address of record. If Petitioner's correspondence address has changed, he must indicate when this occurred, and why a change of correspondence address was not submitted to the Office.

Pursuant to the discussion above, the petition must be **DISMISSED.**

The receipt of the Request for Continued Examination (RCE), the fee associated with the filing of an RCE, and the concurrently filed amendment is acknowledged.

The conditional petitions under 37 C.F.R. §§1.137(a) and (b) will be held in abeyance, so as to provide Petitioner with an opportunity to seek the withdrawal of abandonment via the filing of a renewed petition. If Petitioner would prefer to seek revival under the unavoidable/unintentional standard, a response to this decision should be submitted with words to this effect.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be

submitted by mail[1], hand-delivery[2], or facsimile[3].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

As indicated above, it has been noted that the address listed on the petition differs from the address of record. If Petitioner desires to receive future correspondence pertaining to 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[4]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

cc: Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin NJ 08830

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MAR 30 2007
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CANCELLED

In re Application of R. Bharat Rao et al. Application No. 10/287,073 Filed: November 4, 2002 Attorney Docket No. 2002P18302US Title: PATIENT DATA MINING FOR LUNG CANCER SCREENING	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed February 1, 2007, 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 January 30, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no responses were received. Accordingly, the

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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.

above-identified application became abandoned on May 1, 2006. A notice of abandonment was mailed on August 8, 2006.

A petition pursuant to Rule §1.181(a) was filed on September 7, 2006, which was dismissed via the mailing of a decision on December 14, 2006.

With the previous petition, Petitioner included a Request for Continued Examination (RCE), the associated fee, and an amendment.

With the present petition, Petitioner has included the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required.

The present 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 submission under 37 C.F.R. §1.114 - the amendment filed on September 7, 2006 - can be processed.

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

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

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

DATE 9/18/07 APPLICATION NUMBER 10/287,085

DOC CODE pa. DC. TC DOC DATE 9/21/07

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

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Intellectual Property Department
186 Wood Avenue South
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In re Application of
Rao et al.
Application No. 10/287,085
Filed: November 4, 2002
Title: Patient Data Mining For Cardiology Screening

ON PETITION

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

This above-identified application became abandoned for failure to timely file a complete reply to the restriction requirement of December 12, 2005. An amendment was filed on February 21, 2006. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on March 2, 2006 which set an extendable reply period of one month. A reply was submitted March 8, 2006. A new Notice of Non-Compliant Amendment was mailed March 15, 2006. The new notice did not provide for any additional time period for reply. A timely reply to the second Notice of Non-Compliant Amendment was not received. This application became abandoned on April 3, 2006. A Notice of Abandonment was mailed on September 22, 2006.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Art Unit 3735 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: Francis G. Montgomery
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08630

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OCT - 7 2004

PHILIP S. JOHNSON
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NEW BRUNSWICK NJ 08933-7003

In re Application of
Eisenger et al
Serial No.: 10/287096
Filed: November 4, 2002
Attorney Docket No.: ORT-1670

: PETITION DECISION

This is in response to the petition under 37 CFR 1.181, filed August 10, 2004, requesting withdrawal of an improper restriction requirement.

The examiner send out a Non Final Office action on May 10, 2004 wherein the traversal to the restriction was considered. However the restriction has not yet been MADE FINAL.

According to 37 CFR 1.144, after a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

The petition was filed before the restriction was MADE FINAL and therefore is not in compliance with 37 CFR 1.144.

The petition is **DISMISSED**.

Applicant is reminded of the requirement to reply to the Office action mailed May 10, 2004, within the time period set therein.

Should there be any questions about this decision please contact Jean F. Vollano by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0648 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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NEW BRUNSWICK NJ 08933-7003

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JUN 13 2006

OFFICE OF PETITIONS

In re Application of :
Magdalena Eisinger et al :
Application No. 10/287,096 :
Filed: November 4, 2002 :
Attorney Docket No. ORT-1670 :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 25, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1626 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

In re Application of	:	
Magdalena Eisnger, et al.	:	
Application No. 10/287,096	:	DECISION ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. ORT-1670	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 23, 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 15, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 1626 for appropriate action by the Examiner in the normal course of business on the reply received March 23, 2007.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Richard E. Olson et al. :
Application No. 10/287,099 : ON PETITION
Filed: November 4, 2002 :
Attorney Docket No. BMS-PH-7187-AD

This is a decision on the petition under 37 CFR 1.137(b), filed January 2, 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 April 11, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 12, 2003.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Hans-Peter G. Hoffman appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Hans-Peter G. Hoffman desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of currently of record until otherwise instructed.

The application file is being forwarded to Technology Center AU 1624 for further processing.

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

Latrice Bond

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

cc: Hans-Peter G. Hoffman
Pillsbury Wingthrop, LLP
695 East Main Street
Stamford, CT 06901

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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J. RODMAN STEELE, JR.
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Patent No. 6,953,543	:	
Issue Date: 11 October, 2005	:	
Application No. 10/287,106	:	ON PETITION
Filed: 4 November, 2002	:	
Attorney Docket No. 1610-96	:	

This is a decision on the petition filed 22 December 2006, treated as a request under 37 C.F.R. §3.81(b)[1] and §1.323 to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

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 is **GRANTED**.

Petitioner requests issuance of a certificate of correction in the name of "Intercos S.p.A."

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. The regulations at 37 C.F.R. §3.81 (b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but prior to issuance of a patent.

Patent and Trademark Office assignment records disclose that an assignment under a merger from the assignee Intercos Italia S.p.A. to Intercos S.p.A. was recorded on 20 October, 2004, at Reel/Frame 015271/0122. Thereafter the patent issued, as indicated above, on 11 October, 2005. (*See*, generally in this regard: MPEP §307.)
Petitioner states that the correct assignee's name is Intercos S.p.A. and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee.

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

In re Patent No. 6,953,543
Application No. 10/287,106

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[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

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

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

In re Patent No. 6,953,543
Application No. 10/287,106

Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

The regulations at 37 C.F.R. §3.81(b), effective June 25, 2004, provide:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in .§1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect assignment as set forth above.

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.[2]

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

Accordingly, because the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

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[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).

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

SYMYX TECHNOLOGIES, INC.
LEGAL DEPARTMENT
3100 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of
Boussie et el.
Application No. 10/287,129
Filed: November 4, 2002
Attorney Docket No. 2001-073R

ON PETITION

This decision concerns the February 19, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on August 14, 2003 for failure to timely respond to the May 13, 2003 non-final Office Action.

The instant petition encloses an amendment; authorizes the USPTO to charge the $1,330 petition fee to Deposit Account No. 50-0496; and states in effect that the entire delay in responding to the May 13, 2003 non-final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

In addition, the associate power of attorney enclosed with the petition has been entered and made of record.

The application file is being returned to Technology Center 1700 for further examination.

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

RC Tang
Petitions Attorney
Office of Petitions

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LEGAL DEPARTMENT
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SANTA CLARA, CA 95051

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AUG 09 2005

OFFICE OF PETITIONS

In re Application of
Thomas R. Boussie, et al.
Application No. 10/287,129
Filed: November 4, 2002
Attorney Docket No.: 2001-073R

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 5, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1713 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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SCULLY SCOTT MURPHY & PRESSER, PC
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SUITE 300
GARDEN CITY NY 11530

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Dacier et al.	:	
Application No. 10/287,132	:	ON PETITION
Filed: November 1, 2002	:	
Attorney Docket No. CH920010041US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 14, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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22ND FLOOR
HARTFORD, CT 06103

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OFFICE OF PETITIONS

In re Application of	:	
Toma et al.	:	
Application No. 10/287,140	:	DECISION ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. 06140-P91US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 6, 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 non-final Office action mailed January 11, 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 timely obtained. Accordingly, the application became abandoned on April 12, 2005.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two 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 April 12, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Cantor Colburn L.L.P. was counsel of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed outside of Cantor Colburn L.L.P.. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Mr. Rodrigues and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Cantor Colburn L.L.P., and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Cantor Colburn L.L.P. and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $525.00 extension of time fee submitted with the petition on December 6, 2007 was subsequent to the maximum extendable period for reply and is therefore considered untimely. This fee will be refunded to petitioner's deposit account in due course.

Further, the Request for Continued Examination, filed December 6, 2007 was improper as the last action was a Non-Final office action. Accordingly, this fee will also be refunded to petitioner's deposit account in due course.

Further, the address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: David E. Rodrigues
55 Griffin Road South
Bloomfield, CT 06002

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HARTFORD CT 06103

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OCT 23 2008

In re Application of	:	
Toma et al.	:	
Application No. 10/287,140	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. 06140-P91US	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed September 30, 2008, 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 January 11, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on April 12, 2005. A Notice of Abandonment was mailed August 12, 2005.

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

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

The instant petition lacks item(s) (3).

---

[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 renewed petition claims that Mr. David Rodrigues, due to three events, (his daughter's adoption; the quiting of his administrative assistant, who kept his docket; and his law school commitments) "somehow caused [him] to completely overlook filing a response to the Office Action." Further, Mr. Rodrigues states, "Not only did I not file a response to the Office Action dated January 11, 2005, I was not even aware that a response was due." However, a Notice of Abandonment was mailed on August 12, 2005 and there is no mention of this in Mr. Rodrigues' renewed petition. Further, it is unknown at what date Mr. Rodrigues' administrative assistant quit, and if she informed him about the application before leaving the position.

Petitioner may wish to pursue reinstatement of the patent under the unavoidable provisions of 37 CFR 1.137(a). A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); **(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable**; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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HARTFORD CT 06103

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FEB 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Toma et al.	:	
Application No. 10/287,140	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. 06140-P91US	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed January 23, 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 January 11, 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 timely obtained. Accordingly, the application became abandoned on April 12, 2005. A Notice of Abandonment was mailed August 12, 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 (previously filed on December 6, 2007), (2) the petition fee of $770.00 (previously paid on December 6, 2007), and (3) an adequate statement of unintentional delay.

Additionally, on September 30, 2008, petitioner has submitted an unnecessary petition fee of $400.00. This fee will be refunded to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 3736 for appropriate action by the Examiner in the normal course of business on the Amendment previously filed on December 6, 2007.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Jay Michael Ponte	:	
Application No. 10/287,161	:	DECISION GRANTING PETITION
Filed: November 4, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 99-855CIP1DIV1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 28, 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 April 28, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2168 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/287,173	11/04/2002	Colin Hill	129415-10	6595

31013 7590 07/28/2009
KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER
ZEMAN, MARY K

ART UNIT	PAPER NUMBER
1631	

NOTIFICATION DATE	DELIVERY MODE
07/28/2009	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):

klpatent@kramerlevin.com

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In re Patent No. HILL ET AL.	:	
Issue Date: 8/19/2008	:	**DECISION GRANTING**
Appl No.: 10/287,173	:	**PETITION**
Filed: November 04, 2002	:	*37 CFR 1.324*
For: METHODS AND SYSTEMS FOR THE	:	
IDENTIFICATION OF COMPONENTS OF	:	
MAMMALIAN BIOCHEMICAL NETWORKS AS	:	
TARGETS FOR THERAPEUTIC AGENTS	:	

This is a decision on the petition under 37 CFR 1.48, filed 9/22/2008. The previous communication mailed 2/6/2009 is hereby withdrawn. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Marjorie Moran/
Supervisory Patent Examiner
Art Unit 1631
Patent Examining Group 1631

KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OFFICE OF PETITIONS

A. Burgess Lowe
101 East Maple Street
North Canton OH 44720

In re Application of William H. Theiss, Jr. et al. Application No. 10/287,179 Filed: November 4, 2002 Attorney Docket Number: 2611 Title: BRUSH ASSEMBLY DISTRIBUTION APPARATUS	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed on August 3, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 5, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 6, 2005. A notice of abandonment was mailed on October 19, 2005.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

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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.

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

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries

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2 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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: Mark L. Weber
First National Tower, Fourth Floor
Akron, Ohio 44308

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Vipul Bhupendra Dave :
Application No. 10/287,198 :
Filed: November 4, 2002 :
Attorney Docket No. J&J-1895 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2004, to revive the above-identified application.

The petition is **GRANTED.**

A Notice of Non-Compliance was mailed on January 28, 2004. The Notice indicated that the Amendment filed December 29, 2003 was considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, June 30, 2003). Petitioner was given a time period of one (1) month or thirty (30) days from the mailing date of the notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment of the application. Accordingly, the application became abandoned on February 29, 2004.

Receipt is acknowledged of the Information Disclosure Statement filed June 28, 2004, with the instant petition.

The application matter is being forwarded to Technology Center 1700, Art Unit 1762 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

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

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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OFFICE OF PETITIONS

Kenneth Barovsky
26118 Research Road
Hayward, CA 94545

In re Application of :
Lanerolle et al. :
Application No. 10/287,216 : DECISION ON PETITION
Filed: November 4, 2002 :
Attorney Docket Number: :
30151/92399-3 :

This is a decision on the Petition to Accept Drawings, filed February 3, 2003, requesting that the above-identified application be accorded a filing date of November 4, 2002, with drawing Figures 3 and 4 as part of the original disclosure.

The petition is dismissed.

The application was deposited on November 4, 2002. However, on January 17, 2003, the Office mailed a "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures" stating that the application had been accorded a filing date of November 4, 2002, and advising applicants, *inter alia*, that Figures 3 and 4 described in the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that the drawings in the above-identified application were incorporated by reference to prior nonprovisional application no. 09/893,371.

Applicants are advised that a petition is not necessary in this instance to add the drawing figures. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated by herein by reference." The statement may appear in the

> specification or in the application transmittal letter . . . . The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of November 4, 2002, using Figures 1 and 2 filed on that date.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

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Kenneth Barovsky
26118 Research Road
Hayward CA 94545

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OFFICE OF PETITIONS

In re Application of
De Lanerolle, et al.
Application No. 10/287,216
Filed: November 4, 2002
Attorney Docket No. 30151/92399

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 17, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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, "the case is being transferred to attorney of client's choosing", does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Kevin E. Noonan
McDonnell Boehnen Hulbert & Berghoff, LLP
300 South Wacker Drive
Chicago, IL 60606

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PARK, VAUGHAN & FLEMING LLP
508 SECOND STREET
SUITE 201
DAVIS CA 95616

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OFFICE OF PETITIONS

In re Application of	:	
Gorshenev, et al.	:	
Application No. 10/287,227	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. SUN-P8576-EKL	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 11, 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 12, 2003.

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

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

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

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McDERMOTT, WILL & EMERY
28 STATE STREET
BOSTON, MA 02109-1775

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OFFICE OF PETITIONS

In re Application of	:	
Corey et al.	:	
Application No. 10/287,239	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. 38484-070 (BYRK-19DV)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 1, 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 April 13, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 14, 2005.

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

Petitioner's deposit account was inadvertently charged an additional $300.00 for a republication fee. The fee was charged in error and will be credited to petitioner's deposit account immediately.

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

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United States Patent and Trademark Office
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JAN 0 6 2010

Edouard Garcia
Hewlett-Packard Comapny,
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
Fort Collins, CO 80528

In re Application of	: DECISION ON PETITION
Steve Kakouros et al	: TO CORRECT THE CITED
Application No. 10/287,248	: REFERENCE IN THE
Filed: November 4, 2002	: OFFICE ACTION
For: MONITORING A DEMAND	: UNDER 37 CFR 1.181
FORECASTING PROCESS	:

This is in response to applicants' petition under 37 CFR 1.181 filed May 30, 2008 requesting to correct the publication date of the citation for the Kwag reference ("Bias in Analysts' Earning Forecasts").

The petition is **DISMISSED AS MOOT**.

In the Notice of References Cited (PTO-892) attached to the non-final Office action dated August 1, 2007, the examiner cited a non-patent literature document (NPL) titled "Bias in Analysts Earnings Forecasts" by Seung-Woog (Austin) Kwag using the date January 2002 printed on the front page as the publication date. Applicant filed a petition on May 30, 2008 challenging the publication date of the Kwag's NPL document. Applicant alleges that the January 2002 date on the front page of the Kwag's NPL document is not the publication date. Rather, the publication date should be January 2003 when this document was presented in the FMA Annual Meeting in 2003.

A review of the file reveals that the publication date of the citation to the Kwag reference was corrected by the Examiner as detailed in a letter on form PTOL-90A mailed to applicant on October 21, 2009. The publication date was changed to January 2003.

The record further reveals that applicant submitted a withdrawal of the instant petition under 37 CFR 1.181 on October 16, 2009.

In view of the above, the petition is moot and hereby dismissed.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Bradley B. Bayat at (571) 272-6704.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

bbb/lm: 12/28/09
LM

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PATE PIERCE & BAIRD
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OFFICE OF PETITIONS

In re Application of
Lindsay Holt Schvaneveldt
Application No. 10/287,256
Filed: November 4, 2002
Attorney Docket No. 3323.2.1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed, January 10, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on April 11, 2005.

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

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 "under this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 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 April 11, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Pate Pierce & Baird was counsel of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts they made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all 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 (over 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 persons then at Pate Pierce & Baird and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

for

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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PATE PIERCE & BAIRD
175 SOUTH MAIN STREET, SUITE 1250
SALT LAKE CITY UT 84111

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OCT 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Holt, Lindsay	:	
Application No. 10/287,256	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. 3323.2.1	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed August 18, 2008, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Lindsay H. Schvaneveldt to Lindsay Holt.

A Corrected Filing Receipt reflecting the above name change is enclosed.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: 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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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/287,256	11/04/2002	2841	559	3323.2.1	41	3

CONFIRMATION NO. 5142

CORRECTED FILING RECEIPT

28049
PATE PIERCE & BAIRD
175 SOUTH MAIN STREET, SUITE 1250
SALT LAKE CITY, UT 84111

OC000000032499242

Date Mailed: 10/08/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Lindsay Holt, Bountiful, UT;

Power of Attorney:

A Pate--36234
Gary Pierce--38019
David Fonda--39672
Hal Baird--42284
Gordon Hill--48664
Daniel Nelson--52063

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/04/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/287,256**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Medication regimen communicator apparatus and method

Preliminary Class

368

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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PATE PIERCE & BAIRD
175 SOUTH MAIN STREET, SUITE 1250
SALT LAKE CITY UT 84111

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Lindsay Holt :
Application No. 10/287,256 : DECISION ON PETITION
Filed: November 4, 2002 :
Attorney Docket No. 3323.2.1 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed January 10, 2005, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2841 for appropriate action by the Examiner in the normal course of business on the reply received May 21, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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JUL 1 1 2005

Director's Office
Office of Patent Publication

SUMMA & ALLAN, P.A.
11610 NORTH COMMUNITY HOUSE ROAD
SUITE 200
CHARLOTTE, NC 28277-2162

In re Application of
MACKIN, IAN J., et al.
Application No. 10/287,273
Filed: December 4, 2002
Attorney Docket No. 1321.1

DECISION ON PETITION

This is a decision on the Petition Under C.F.R. § 1.181(a) To Withdraw Holding Of Abandonment In Accordance With MPEP 711.03(c), received in the United States Patent and Trademark Office (USPTO) on February 7, 2005.

The petition is **GRANTED**.

The application was abandoned for failure to timely file a proper reply to the Office letter — Notice Regarding Drawings — mailed October 7, 2004.

Petition states that the Applicants did not response to the Notice Regarding Drawings because Applicants did not received the Notice.

In absence of any irregularity in the mailing of the Notice Regarding Drawings, there is a strong presumption that the Office action was properly mailed on October 7, 2004 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 action must include a statement from the practitioner stating that the practitioner did not receive the Office action, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record must be attached to and referenced in practitioner's statement. MPEP 711.03(c)II

Petitioner has met the above-stated conditions. Accordingly, the holding of abandonment is hereby withdrawn.

The Chief Draftsperson objected the drawings submitted with the petition. A Notice Regarding Drawings with the Notice Of Draftsperson's Patent Drawing Review, Form PTO-948 is being mailed concurrently. The PTO-948 notes the objections to the drawing, received on February 7, 2005, and the required corrections. The applicant has been given a two-month time period to correct the informalities.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

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NOV 4 2003

#7

VIDAS, ARRETT & STEINKRAUW
6109 BLUE CIRCLE DRIVE
MINNETONKA, MN 55343

In re Application of	:	
Graig L. Kveen, et al	:	
Serial No.: 10/287,286	:	DECISION ON PETITION
Filed: November 4, 2002	:	
For: An Improved Stent	:	

This is in response to applicants' petition filed October 14, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

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Paper No. 7

GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Andreas C. Wegener, et al. :
Application No. 10/287,298 :
Filed: November 1, 2002 :
Attorney Docket No. 7043-PA06 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 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 February 25, 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 May 26, 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 3600, Art Unit 3618 for further processing.

Retta Williams

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

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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MAR 3 1 2008

In re Application of	:	
HEATON, Timothy H. et al.	:	
Application No. 10/287,332	:	DECISION ON PETITION
Filed: November 01, 2002	:	TO WITHDRAW
Attorney Docket No. **01-1059**	:	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 of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed November 27, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **TIMOTHY H. HEATON**
19 OLD GLENN ROAD
MORRISTOWN, NEW JERSEY 07960

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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JJGJR.: 06-06

Paper No: __

SAMIR R. PATEL, ESQ.
BIOMERIEUX, INC.
PATENT DEPARTMENT
100 RODOLPHE STREET
DURHAM NC 27712

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JUN 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Sarngadharan, et al.	:	
Application No. 10/287,341	:	ON PETITION
Filed: 4 November, 2002	:	
Attorney Docket No. 00817	:	

This is a decision on a petition filed on 1 November, 2005, under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the final Office action mailed on 21 April, 2005, with reply due absent extension of time on or before 21 July, 2005;
- the application went abandoned by operation of law after midnight 21 July, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- Petitioner filed the instant petition (with fee) on 1 November, 2005, with a reply in the form of a request for continued examination (RCE), fee and submission under 37 C.F.R.

§1.114, a statement of unintentional delay and a terminal disclaimer and fee as directed by the Examiner–thus Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

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

The terminal disclaimer filed on 1 November, 2005, under 37 C.F.R. §1.137(d) was entered and made of record.[7]

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 1600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

[7] The regulations at 37 C.F.R. §1.137(d)(1) state that a terminal disclaimer filed pursuant to this rule must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of: 1) the period of abandonment of the application; or 2) the period extending beyond twenty years from the date on which the application for the patent was filed in the United States, or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121 or 365(c), from the date on which the earliest such application was filed. Effective 20 September, 2000 (65 Fed. Reg. 54674, 8 September, 2000).

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OFFICE OF PETITIONS

EDWARD P. DUTKIEWICZ, ESQ.
EDWARD P. DUTKEIWICZ, P.A.
640 DOUGLAS AVENUE
DUNEDIN FL 34698-7001

In re Application of	:	
Stephen Corrado	:	
Application No. 10/287,347	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. CD60/03	:	

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 submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 3, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 4, 2004.

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

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United States Patent and Trademark Office
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Paper No. 61005

Jonathan P. Osha
OSHA & MAY L.L.P.
1221 McKinney Street
One Houston Center, Suite 2800
Houston TX 77010

JUN 24 2005

In re Application of:
Akiba *et al.*
Serial No.: 10/287,355
Filed: November 04, 2002
Attorney Docket No.: **15115.042001**

DECISION ON PETITION

This is a decision on the petition filed April 25, 2005. The petition has been treated as a petition to remail the final Office action mailed on November 04, 2004. No petition fee is required.

The petition is **GRANTED.**

The petitioner asserts that the final Office action mailed on November 04, 2004 was not received. It is further asserted that a remailing of the final Office action on January 19, 2005 was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was also included with the petition.

M.P.E.P. 707.13 states in part:

> *Letters 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 letter again, after stamping it "remailed" with the date thereof and redirecting it if there be any reason to believe that the letter would reach applicant at such new address. If the Office letter was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned letter. 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).*

A review of the record shows that a final Office action was mailed on November 04, 2004, and returned by the United States Postal Service to the United States Patent and Trademark Office on November 16, 2004. From the review of the official record, it does not appear that an attempt to remail the final Office action was made. Accordingly, the final Office action was not remailed pursuant to M.P.E.P. § 707.13.

For the above stated reasons, the petition is granted.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the final Office action dated November 04, 2004. The shortened statutory period for response set therein will be reset to run three months from the date the final Office action is remailed.

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

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

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HARNESS, DICKEY & PIERCE PLC
P O BOX 828
BLOOMFIELD HILLS, MI 48303

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Hyun II Byun :
Application No. 10/287,358 : DECISION ON PETITION
Filed: November 4, 2002 :
Attorney Docket No. 9242-000025 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 29, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed December 29, 2005. Accordingly, the date of abandonment of this application is March 30, 2006. A Notice of Abandonment was mailed on June 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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FEB 18 2005

In re Application of	:	
ZECK.	:	
Serial Number: 10/287,392	:	PETITION UNDER
Filed: November 04, 2002	:	M.P.E.P.708.02 V
For: OPTICAL ODORIZATION SYSTEM	:	AND VI

This is in response to the petition filed November 19, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V and VI of the MPEP and 37 CFR 1.102 (**no fee required**).

The request for Special Status considered under Sections 708.02 V and VI is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

R Crispino

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Whitaker, Chalk, Swindle & Sawyer, LLP
3500 City Center Tower II
301 Commerce Street
Fort Worth, TX 76102-4186

Copy to applicant

10287392 .110402

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700 FEB 18 2005

Docket No. 093635.000002

DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first, and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled

OPTICAL ODORIZATION SYSTEM

the specification of which is attached hereto, referred to by attorney docket number 093635.000002.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint **James E. Bradley**, Reg. No. **27,536**; **Charles D. Gunter, Jr.**, Reg. No. **29,386**; **Andrew J. Dillon**, Reg. No. **29,634**; **Michael Alford**, Reg. No. **48,707**, and all other attorneys of the firm of Bracewell & Patterson, LLP to prosecute this application and to transact all business in the U.S. Patent and Trademark Office in connection therewith.

Please send all correspondence to:

Charles D. Gunter, Jr.
Reg. No. 29,386
Bracewell & Patterson, LLP
201 Main Street, Suite 1600
Fort Worth, Texas 76102-3106
(817) 332-8143

11/02/2002 12:13 915-686-2706 MRR INC PAGE 02

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 2 7 2007

OFFICE OF PETITIONS

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

In re Application of	:	
Xiaoying Zhang	:	
Application No. 10/287,410	:	DECISION ON PETITION
Filed: November 4, 2002	:	TO WITHDRAW
Attorney Docket No. 219844	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Leydig, Voit & Mayer, LTD has been revoked by the assignee of the patent application on March 29, 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.

There is an outstanding Office action mailed November 24, 2006 that requires a reply by the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PATRICK HALLORAN, PHD. J.D.
3141 MUIRFIELD ROAD
CENTER VALLEY, PA 18034

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OCT 2 2 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Xiaoying Zhang
Application No. 10/287,410
Filed: November 4, 2002
Attorney Docket No. APLI-0229

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 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 24, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 25, 2007.

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

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

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

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OCT 2 2 2007

OFFICE OF PETITIONS

In re Application of
Xiaoying Zhang
Application No. 10/287,410
Filed: November 4, 2002
Attorney Docket No. APLI-0229

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 23, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Leydig, Voit & Mayer, LTD has been revoked by the assignee of the patent application on March 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PATRICK HALLORAN, PHD. J.D.
3141 MUIRFIELD ROAD
CENTER VALLEY, PA 18034

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

MERCHANT & GOULD PC
3200 IDS CENTER
80 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402-0903

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SEP 03 2003

OFFICE OF PETITIONS

In re Application of
Kenneth H. Callaway, Anthony N. Upchurch and Ernest Wright
Application No.10/287,421
Filed: November 4, 2002
Attorney Docket Number: 60065.0003USU1
Title of Invention: WARP SIZE LUBRICANTS AND PROCESSES OF MAKING AND USING THE SAME

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 11, 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 Alysa Freeman attest the application papers were presented to the non-signing inventor and he orally refused to execute the application papers. The non-signing inventor's failure to execute the application papers sufficiently establishes that he refuse to execute the application papers.

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Anthony Upchurch
2135 Primrose Place Lane
Lawrenceville, GA 30044

In re Application of
Kenneth H. Callaway, Anthony N. Upchurch
and Ernest Wright
Application No. 10/287,421
Filed: November 4, 2002
Attorney Docket Number: 60065.0003USU1
Title of Invention: WARP SIZE LUBRICANTS
AND PROCESSES OF MAKING AND USING
THE SAME

LETTER

COPY MAILED

SEP 03 2003

OFFICE OF PETITIONS

Dear Mr. Upchurch:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper In the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No. 6

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OFFICE OF PETITIONS

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

In re Application of
Callaway et al.
Application No.10/287,421
Filed: November 4, 2002
Attorney Docket No. 60065.0003USU1
Title of Invention: WARP SIZE LUBRICANTS AND PROCESSES OF MAKING AND USING THE SAME

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

Reconsideration 2: Aug 19, 2003 D
Reconsideration Stat: Dec. 19, 2003

RECEIVED

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OFFICE OF PETITIONS

This is in response to the petition filed April 7, 2003, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

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

The above-identified application was filed on November 4, 2002, without an executed oath or declaration. Accordingly, on December 3, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of February 3, 2003.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, statement of facts from Kenneth Callaway, and a partially executed declaration. To make timely a request for a two (2) month extension of time was submitted with the petition.

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

The instant petition does not satisfy requirements (1).

As to item (1), petitioner has presented a statement from Kenneth Callaway a co-inventor and President of assignee corporation. However, the declaration does not indicate Mr. Callaway was present when inventor Upchurch refused to review the

application papers and execute the declaration and assignment documents. A statement regarding the refusal must be presented from someone with first hand knowledge of the refusal.[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 facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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AUG 1 2 2003
OFFICE OF PETITIONS

[1]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. See MPEP 409.03

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PATENT & TRADEMARK OFFICE

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SEP 0 5 2003
TC 1700

S/N 10/287,421 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Callaway et al.	Examiner:	Not Yet Assigned
Serial No.:	10/287,421	Group Art Unit:	1751
Filed:	November 4, 2002	Docket No.:	60065.0003USU1
Title:	Warp Size Lubricants and Processes of Making and Using the Same		

CERTIFICATE UNDER 37 CFR 1.8:
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 29, 2003.

By: _____
Name: James D. Withers

PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT
(37 C.F.R. § 1.102 and M.P.E.P. § 708.02)

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

Dear Sirs:

Applicants hereby petition to make this application special because of actual infringement. Accompanying this petition is a Statement by Attorney in Support of Petition to Make Special Because of Actual Infringement.

The Commissioner is hereby authorized to charge Deposit Account No. 13-2725 in the amount of $130.00. This fee is believed to be correct; however, any additional fees due or a credit for any overpayment may be charged to the deposit account.

09/08/2003 AWONDAF1 00000122 132725 10287421
01 FC:1460 130.00 DA

Respectfully submitted,

James D. Withers
Reg. No. 40,376

Merchant & Gould P.C.
3200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2215
Tel. 404.954.5100
Customer Number 23552

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
JUN - 1 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

Paper No. 6

HAMILTON BROOK SMITH & REYNOLDS P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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JUN 26 2003

OFFICE OF PETITIONS

In re Application of :
Jonathan S. Dordick et al :
Application No. 10/287,434 : NOTICE
Filed: November 1, 2002 :
Attorney Docket No. 3230.1004-001 :

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 1651.

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

WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

COPY MAILED

MAY 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Saari et al.	:	
Application No. 10/287,435	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 915-006.004	:	

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

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: __20080221_

DATE : 2/14/2008

TO SPE OF : ART UNIT 2600 (2618)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,239,889

Attn: Wen Huang

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

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

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

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

Ok to enter changes to drawing figures 1, 3 and 5 as req. in C of C?

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

Thank You For Your Assistance

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

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

Comments: __Fig. 1 (sheet 1/6) and Fig. 5 (sheet 5/6) are approved. Fig. 3 (sheet 3/6) is not approved. Specifically, labeling of logic gate 405 contains a typographical error in fig. 3. Logic gate 405 of fig. 3 is a "OR" gate and is mistakenly labeled as "&" gate.

MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER 2618

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: __20080221_

DATE : 2/14/2008

TO SPE OF : ART UNIT **2600 (2618)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,239,889**

Attn: Wen Huang

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

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

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

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

Ok to enter changes to drawing figures 1, 3 and 5 as req. in C of C?

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

Thank You For Your Assistance

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

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

Comments: __Fig. 1 (sheet 1/6) and Fig. 5 (sheet 5/6) are approved. Fig. 3 (sheet 3/6) is not approved. Specifically, labeling of logic gate 405 contains a typographical error in fig. 3. Logic gate 405 of fig. 3 is a "OR" gate and is mistakenly labeled as "&" gate.

MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER 2618

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

FROST BROWN TODD LLC
2200 PNC CENTER
201 EAST FIFTH STREET
CINCINNATI, OH 45202-4182

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of
Hirsch et al.
Application No. 10/287,436
Filed: October 31, 2002
Attorney Docket No. 10872.514696

ON PETITION

This decision concerns the February 12, 2004 petition under 37 CFR 1.137(b).

The petition is **DISMISSED.**

The application became abandoned on June 12, 2003 for failure to timely file a proper and complete reply to the March 11, 2003 "Notice to File a Missing Parts of Nonprovisional Application" ("3/11/03 Notice") which set forth an extendable 2-month period for submitting, *inter alia*, replacement drawings in compliance with 37 CFR 1.84 and 1.121. The instant petition requests revival of the application under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by, *inter alia*: (1) replacement drawings, (2) the $665 petition fee (small entity) and (3) a statement that the entire delay in submitting a complete response to the 3/11/03 Notice from the due date until the filing of a grantable §1.137(b) petition was unintentional.

The replacement drawings submitted with the petition have been objected to by the draftsperson. The petition is thus dismissed.

A renewed §1.137(b) petition (no petition fee) along with proper replacement drawings must be filed within **TWO MONTHS** of the mailing date of this decision, and should be addressed to:

Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Extensions of time under 37 CFR 1.136(a) are available.

As requested, the new power of attorney and the new correspondence address have been entered and made of record.

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

RC Tang
Petitions Attorney
Office of Petitions

Attachments:
Notice of Draftsperson's Patent Drawing Review
Notice Regarding Change of Power of Attorney (revoking prior powers of attorney)
Notice of Acceptance of Power of Attorney (accepting 2/12/04 Power of Attorney)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 14

FROST BROWN TODD LLC
2200 PNC CENTER
201 EAST FIFTH STREET
CINCINNATI, OH 45202-4182

COPY MAILED
MAY 28 2004
OFFICE OF PETITIONS

In re Application of	:	
Hirsch et al.	:	
Application No. 10/287,436	:	ON PETITION
Filed: October 31, 2002	:	
Attorney Docket No. 10872.514696	:	

This decision concerns the May 14, 2004 renewed petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The February 12, 2004 petition under 37 CFR 1.137(b) was dismissed because the drawings submitted with that petition had been objected to by the draftsperson.

The instant petition encloses a set of substitute drawings which have been approved by the draftsperson. The petition is thus granted.

The application is now complete.

The file is being forwarded to Technology Center 1700 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Carolyn S. Elmore
ELMORE PATENT LAW GROUP, P.C.
209 Main Street
N. Chelmsford MA 01863

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,267,958	:	
Dordick et a	:	DECISION ON REQUEST
Issue Date: September 11, 2007	:	FOR
Application No. 10/287,442	:	RECONSIDERATION OF
Filed: November 1, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 3230.1001-001	:	

This is a decision on the "Request for Reconsideration of the Patent Term Adjustment Under 37 CFR 1.705" filed October 8, 2007. Patentees request a patent term adjustment of one thousand three hundred fifty-nine (1359) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On September 11, 2007, the above-identified application matured into U.S. Patent No. 7,267,958, with a revised Patent Term Adjustment of 611 days. The instant request for reconsideration filed October 8, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d).

Patentees' arguments have been considered, but not found persuasive. First, of all, 37 CFR 1.703(a)(3) provides for period of adjustment under § 1.702(a) for:

> (3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

Patentees maintain that pursuant to 1.703(a)(3), they are entitled to a period of adjustment of 162 days for the period from the filing of the Notice of Appeal on October 4, 2006 to the next Office action mailed January 5, 2007. In this instance, patentees' basis for the period of adjustment for Office delay is incorrect. Given the rendering of a non-final Office action after the notice of appeal and subsequent amendment/argument filed November 30, 2006, for purposes of calculating patent term adjustment, the amendment after final filed August 28, 2006 was treated as a reply in compliance with § 1.113(c). As such, the period of adjustment was properly counted as 8 days, counting the number of days in the period beginning on the day after the date that is *four months after* the date a reply in compliance with § 1.113(c) was filed, December 29, 2006, and ending on the date, in this case, an action under 35 U.S.C. 132 was mailed, January 5, 2007.

Even if patentees' basis for entry pursuant to 37 CFR 1.703(a)(3) were correct, their calculation is not. The period begins on the day after the date that is *four months after* the date a reply in compliance with § 1.113(c) was filed and ends on the date, in this case, an action under 35 U.S.C. 132 was mailed. Thus, with respect to the Notice of Appeal, the period would have begun on February 5, 2007 (not October 4, 2006) and ended on January 5, 2007. No period of adjustment would have been entered as the action under 35 U.S.C. 132 mailed January 5, 2007 was mailed within four months of the filing of the notice of appeal on October 4, 2006.

With respect to §1.703(b), it is noted that the patent issued three years and 679 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except

for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, it was properly concluded that the 678 days accorded pursuant to 1.702(a)(1) and (2) for Office delay during the pendency of the application overlapped with the 679 days for delay in issuance of the patent under §1.703(b). Thus, only the additional non-overlapping period of (679 - 678) 1 day was entered for Office delay in issuing the patent pursuant to 37 CFR 1.703(b).

In view thereof, the patent term adjustment of 611 days indicated in the patent is correct.

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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP G. MEYERS LAW OFFICE
1009 LONG PRAIRIE ROAD, SUITE 300
FLOWER MOUND TX 75022

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OCT 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Schwarz et al	:	
Application No. 10/287,445	:	DECISION GRANTING PETITION
Filed: November 1, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 18525-0741	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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 February 8, 2007, 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. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries 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

cc:
SIEMENS CORPORATION
INTELLECTUAL PROEPRTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NEW JERSEY 08830

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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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/23/2010

Applicant	: Joel R. Spiegel	: DECISION ON REQUEST FOR
Patent Number	: 7610224	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/287,454	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1696** 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

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

In re Patent No. 7,288,371	:	
Issue Date: October 30, 2007	:	
Application No. 10/287,455	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. 21416/93766	:	

This is a decision on the petition filed December 17, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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Paper No. 072505

Sean M. McGinn
McGinn & Gibb, PLLC
8321 Old Courthouse Rd.
Suite 200
Vienna, VA 22182-3817

Appl No.: 10/287,476	:	
Inv: Ajmera et al.	:	**DECISION ON PETITION**
Filed: November 5, 2002	:	**UNDER** *37 CFR 1.181*
For: SELF-ALIGNED SILICIDE (SALICIDE) PROCESS FOR STRAINED SILICON MOSFET ON SiGe AND STRUCTURE FORMED THEREBY	:	

This is a decision on the applicant's "Petition to Reinstate the Appeal" filed under 37 CFR 1.181 filed May 24, 2005. The applicant requests that the Appeal (with its accompanying Appeal Brief of May 24, 2005 which has since been corrected as to matters of form in the Appeal Brief of July 19, 2005) be reinstated.

After a careful review of the file, the petition is hereby **granted**.

The application is being forwarded to the Examiner for drafting of the Examiner's Answer, which accompanies this letter.

Matthew S. Smith

Supervisory Primary Examiner AU 2825

Technology Center 2800

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

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OFFICE OF PETITIONS

In re Application of :
Youji Urano, et al. :
Application No. 10/287,500 :
Filed: November 5, 2002 :
Attorney Docket No. 230289US90 :

ON PETITION

This is a decision on the petition, filed June 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2834 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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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1950 ROLAND CLARKE PLACE
RESTON VA 20191

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OFFICE OF PETITIONS

In re Application of :
Akihiko Kojima :
Application No. 10/287,515 :
Filed: November 5, 2002 :
Attorney Docket No. P22942 :

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

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MAR 18 2004

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

In re Application of	:
Hans John Hansen	:
Serial No.: 10/287,543	: WITHDRAWAL OF ATTORNEY
Filed: November 5, 2002	:
Attorney Docket No.: 018733-1134	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

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

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

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

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

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

Det. Sec.

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In re Application of	:	
Fred A. Elder, et al.	:	
Serial Number: 10/287,552	:	PETITION UNDER
Filed: November 4, 2002	:	M.P.E.P.708.02 XI
For: METHOD AND APPARATUS FOR DESTRUCTION	:	
OF BIOLOGICAL MATTER IN A VENTILATION	:	
SYSTEM USING UV RADIATION	:	

This is in response to the petition filed April 13, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 XI of the MPEP and 37 CFR 1.102(d). The petition fee set forth under 37 CFR 1.17(h) has been paid.

The request for Special Status considered under Section 708.02 XI is granted because criteria under 37 CFR 1.102(d) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

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

EDWARD TRACY, JR., ESQ.
SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

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Paper No. 6

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OFFICE OF PETITIONS

LETTER

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

In re Application of :
Findlay, et al. :
Application No. 10/287,554 :
Filed: November 1, 2002 :
Attorney Docket No. MTIPAT.146D1C1 :
For: SYSTEM AND METHOD FOR :
COMMUNICATING A SOFTWARE-GENERATED :
PULSE WAVEFORM BETWEEN TWO SERVERS IN :
NETWORK :

This letter is in response to the "RESPONSE TO NOTICE TO FILE MISSING PARTS," filed March 3, 2003.

The instant application is a continuation of 09/658,333 which is a division of 08/942,221 which claims priority from provisional application 60/046,327. In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 08/942,221 filed October 1, 1997. Furthermore, a copy of the decision, mailed October 30, 2000, granting a petition to accord Rule 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

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

Telephone inquiries related to this decision should be directed to the undersigned at (703) 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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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300/310
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Anthony L. Bowman :
Application No. 10/287,601 :
Filed: November 5, 2002 :
Attorney Docket No.3395-096 :

REQUEST FOR INFORMATION

REQUEST FOR INFORMATION

Papers styled, "Response To Notice To File Corrected Application Papers And Petition Under 37 CFR 1.182" were filed December 12, 2002.

The application was filed on November 5, 2002. However, on November 29, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, but Figures 2 and 3 as described in the specification appear to have been omitted.

In response, on December 12, 2002, the instant petition and a copy of Figures 2 and 3 as described in the specification were submitted. The petition states, "[a]lso attached is a copy of the stamped post card dated November 5, 2002 ... showing that three sheets of formal drawings were filed." However, the aforementioned copy of the postcard receipt cannot be located in the application file after a thorough review. Petitioner should respond to this Request For Information by providing a copy of the aforementioned postcard receipt.

A decision on this petition will be held in abeyance for a period of TWO MONTHS from the date of this communication to permit petitioner to submit the copy of the postcard receipt before reaching a final decision. No extension of this two month time limit can be granted under 37 CFR 1.136(a) or (b).

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 7

LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300/310
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Anthony L. Bowman :
Application No. 10/287,601 :
Filed: November 5, 2002 :
Attorney Docket No. 3395-096 :

ON PETITION

This is a decision on papers styled "Response To Notice To File Corrected Application Papers And Petition Under 37 CFR 1.182" filed on December 12, 2002, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 5, 2002, including Figures 2 and 3, as described in the specification.

The application was filed on November 5, 2002. However, on November 29, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, but Figures 2 and 3 as described in the specification appear to have been omitted.

In response, on December 12, 2002, the instant petition and a copy of Figures 2 and 3 as described in the specification were submitted. The petition states, "[a]lso attached is a copy of the stamped post card dated November 5, 2002 ... showing that three sheets of formal drawings were filed." However, the aforementioned copy of the postcard receipt cannot be located in the application file after a thorough review. A "Request For Information" was mailed to the attorney of record on August 20, 2003, requesting a copy of the aforementioned stamped postcard receipt, but no response has been received by the Office.

As such, petitioner's argument is not persuasive. The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals that two (2) pages of drawings were filed on November 5, 2002, and the two (2) pages of drawings contain Figures 1, 4 and 5. The page containing Figures 2 and 3 was not filed on November 5, 2002, since no such page is present in the file. 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. Petitioner has not submitted any evidence to support petitioner's allegation.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice 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 MPEP 503.

A copy of a postcard receipt that would indicate receipt of the omitted figures has not been submitted. If petitioner has a postcard receipt date stamped by the Office that indicates receipt of Figures 2 and 3 (or three (3) pages of drawings), on November 5, 2002, then the postcard receipt or a copy thereof should be supplied.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. If petitioner has a postcard receipt acknowledging receipt of Figures 2 and 3 (or three (3) pages of drawings) on November 5, 2002, the postcard receipt or a copy thereof should be supplied, accompanied by a letter requesting reconsideration of this decision. No additional petition fee is required for such a request.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

By mail: Mail Stop Petition
Commissioner for Patents

Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

The application will maintain the November 5, 2002 filing date, and the application papers (i.e. the original disclosure of the invention) will include only those application papers present in the USPTO on the filing date.

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

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

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

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PHILLIPS LYTLE LLP
INTELLECTUAL PROPERTY GROUP
3400 HSBC CENTER
BUFFALO, NY 14203-3509

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OFFICE OF PETITIONS

In re Application of :
Anthony L. Bowman :
Application No. 10/287,601 : ON PETITION
Filed: November 5, 2002 :
Attorney Docket No. 3395-096 :

This is a decision on papers styled "Request For Reconsideration Of Petition" filed on May 28, 2004, which is being treated as a renewed petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 5, 2002, including Figures 2 and 3, as described in the specification.

The application was filed on November 5, 2002. However, on November 29, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, but Figures 2 and 3 as described in the specification appear to have been omitted.

However, on June 4, 2004, OIPE withdrew the previous Notice and stated the application is complete. A review of the current application file indicates three (3) sheets of drawings, including Figures 2 and 3, were filed with the application on November 5, 2002. It is assumed that the drawings were misplaced by the Office and recently placed in the correct location. The Office apologizes for any inconvenience this has caused.

In view of the above, the petition is granted.

The $130.00 petition fee will be refunded by treasury check.

This application will be forwarded to Technology Center 2800 for examination *in due course*.

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

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

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HIMANSHU S. AMIN
AMIN & TUROCY, LLP
NATIONAL CITY CENTER, 24TH FLOOR
1900 E. 9TH STREET
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Tripsas, et al.	:	
Application No. 10/287,612	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. H0434 (AMDP967US)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee on or before June 14, 2004. Accordingly, this application became abandoned on June 15, 2004. A Notice of Abandonment was mailed on July 30, 2004.

If petitioner wishes to assert that the abandonment was in error and that the issue and publication fees were timely submitted, petitioner should file a petition under 37 CFR 1.181 to withdraw the holding of abandonment. A petition fee is not required in the submission of a petition under 37 CFR 1.181 to withdraw the holding of the abandonment.

This application is being forwarded to Publishing Division for processing into a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Feb-07

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON TX 77070

COPY MAILED

FEB 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Jose Torres	:	
Application No. 10/287,613	:	DECISION ON PETITION
Filed: 4 November, 2002	:	
Attorney Docket No. 540-0010US	:	

This is a decision on the petition filed on 17 October, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 16 September, 2005, for failure to timely respond to the non-final Office action mailed on 15 June, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in

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

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

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

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

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

accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 24 January, 2006.

Receipt of the amendment in response to the Office action is acknowledged.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Receipt of the revocation and new power of attorney and change of correspondence address is acknowledged. All correspondence will be sent to the new address of record.

This application is being referred to Technology Center Art Unit 2162 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/287,613	11/04/2002	Jose Torres	MRC-1001US

CONFIRMATION NO. 6937

OC000000022671312

29855
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

Date Mailed: 02/27/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/17/2006.

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.

DWood

DOUGLAS I WOOD
OP (571) 272-3231

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/287,613	11/04/2002	Jose Torres	MRC-1001US

CONFIRMATION NO. 6937

OC000000022671261

24923
PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057-1130

Date Mailed: 02/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/17/2006.

- 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).

DWood

DOUGLAS I WOOD
OP (571) 272-3231

NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

BARRY E. BRETSCHNEIDER
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

COPY MAILED

JAN 2 0 2004

OFFICE OF PETITIONS

NOTICE

In re Application of
Arnold Keller
Application No. 10/287,686
Filed: November 5, 2002
Attorney Docket No. 246472003200

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

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

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

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

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

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

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

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

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

This file is being forwarded to Technology Center AU 3731.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,984,049	2006-01-10	10/287,725	2002-11-04	ERIM-47802/03

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	/Allen M. Krass/	Date (YYYY-MM-DD)	2010-01-12
Name	Allen M. Krass	Registration Number	18277

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 6984049
Issue Date: January 10,2006
Application No. 10287725
Filed: November 4,2002
Attorney Docket No. ERIM-47802/03

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

This is a decision on the electronic petition, filed January 12,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 12,2010 .
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

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ALEXANDRIA, VA 22313-1450
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CIBA VISION CORPORATION
PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH, GA 30097-1556

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Robert C. Tucker, et al. :
Application No. 10/287,730 : ON PETITION
Filed: November 4, 2002 :
Attorney Docket No. CL/V-32228A :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 4, 2004, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on January 27, 2005. In response, on March 14, 2005, the present petition was filed.

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

The file is being referred to Technology Center Art Unit 1714 for consideration of the amendment filed March 14, 2005.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

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

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6738277	2004-05-18	10287746	2002-11-04	5510P066

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 Y. Go/	Date (YYYY-MM-DD)	2008-10-07
Name	James Y. Go	Registration Number	40621

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. 6738277
Issue Date: May 18,2004
Application No. 10287746
Filed: November 4,2002
Attorney Docket No. 005510.P066

:

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

:

This is a decision on the electronic petition, filed October 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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
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Paper No. 030304

INTELLECTUAL PROPERTY / TECHNOLOGY LAW
P.O. Box 14329
Research Triangle Park, NC 27709

MAR - 8 2004

In re Application of:
AKER *et al.*
Serial No.: 10/287,753
Filed: November 04, 2002
Attorney Docket No.: **4213-101**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed July 09, 2003, to make the above-identified application special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), § 708.02, Item VI: Energy.

A grantable petition under 37 C.F.R. § 1.102(c), and in accordance with M.P.E.P. § 708.02, Item VI, for inventions which materially contribute to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources, must be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above. No fee is required for this petition.

Petitioner asserts that the present invention provides more efficient charging of lead-acid batteries, in less time, and with less waste heat. Thus, contributing to more efficient utilization of energy resources.

The petition satisfies the requirements pursuant to M.P.E.P. § 708.02, Item VI. Accordingly, the petition is **GRANTED.**

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

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.
Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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

Clayton E. LaBalle, Special Programs Examiner
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

FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED
DEC 0 4 2006
OFFICE OF PETITIONS

In re Application of
Volker Sauermann et al.
Application No. 10/287,801
Filed: November 5, 2002
Attorney Docket No: 13909-07100/2002P10077U

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed November 20, 2006, 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 on March 16, 2006, for failure to file a timely response to the non-Final Office Action mailed December 15, 2005, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed September 19, 2006. Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed December 15, 2005 would have been filed, had it been received. To show that the Office Action mailed December 15, 2005 was not received, petitioner also explains that after searching the file and docket records it was concluded that no correspondence was received for this matter from the USPTO.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed December 15, 2005, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2174 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

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

FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Volker Sauermann	: DECISION ON REQUEST FOR
Patent Number	: 7665030	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/287,801	: OF WYETH
Filed	: 11/05/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 07-03

Paper No: 6

PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON DC 20006

COPY MAILED
AUG 12 2003
OFFICE OF PETITIONS

In re Application of
Guo, et al.
Application No. 10/287,808
Filed: 5 November, 2002
Attorney Docket No.: 9046-053-999

: REQUEST FOR DOCUMENTATION

Confirming a telephone call of 8 August, 2003, to your offices:

A pending petition under 37 C.F.R. §1.47[1] in this matter alleges a property interest in the claimed invention.

However, the inventor assigned his interests to an entity identified as Premier American Technologies Corp. (otherwise referred to as PATCO), and the entity petitioning herein is Spectrumedix, LLC, which identifies itself as a "successor in interest to PATCO."

On this first review, the record does not contain evidence of the transfer of interest.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s). [47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

Please, within two (2) weeks of the date of this letter, provide a copy of such evidence.

You should forward the requested documentation, via FAX, to (703) 308-6916, to the attention of the undersigned attorney at the Office of Petitions, US Patent and Trademark Office.

Telephone inquiries concerning this correspondence 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

JJGJr: 03-04

Paper No: 8

PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON DC 20006

COPY MAILED

MAR 1 5 2004

OFFICE OF PETITIONS

In re Application of		
Guo, et al.	:	
Application No. 10/287,808	:	DECISION ON PETITION
Filed: 5 November, 2002	:	
Attorney Docket No.: 9046-053-999	:	

This is a decision on the petition under 37 C.F.R. §1.47(a), filed on 19 June, 2003, and supplemented via FAX on 26 August, 2003, however, the latter papers were not matched with the file until this writing.

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**.

NOTE:

The address of record in this matter is different from that submitted on Petitioner's papers. If Petitioner desires to receive future correspondence regarding this application, the appropriate change of address and/or power of attorney documentation must be submitted.

A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

BACKGROUND

The record indicates:

- the application was filed on 5 November, 2002, without an executed oath or declaration;
- accordingly, a Notice to File Missing Parts of Application was mailed on 19 December, 2002, requiring, *inter alia*, an executed oath or declaration, and a surcharge for the late filing;
- the petition (with fee) and, *inter alia*, surcharge for late filing, request and fee for extension of time, correspondence and oath/declaration signed by co-inventors Zhiyong Guo and Zhaowei Liu on behalf of themselves and the non-signing inventor Qingbo Li makes the required showing under 37 C.F.R. §1.47(a) of an attempt to present/deliver the entire application to Qingbo Li;
- specifically, the declaration/statement/submission of facts of/by Julius C. Fister III (Reg. No. 46,702) and that of John W. Ritson, Chief Technology Officer of the then-Assignee Spectrumedix establish that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration; and
- with the supplement Petitioner has shown proprietary interest/irreparable harm.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

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

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 1600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

cc:
JULIUS C. FISTER III
FISH & RICHARDSON
11TH FLOOR
1425 K STREET NW
WASHINGTON DC 20005-3500

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 03-04

Paper No: 9

QINGBO LI
2234 AUTUMNWOOD DR.
STATE COLLEGE, PA 16803

COPY MAILED

MAR 1 5 2004

OFFICE OF PETITIONS

In re Application of
Guo, et al. :
Application No. 10/287,808 : CORRESPONDENCE
Filed: 5 November, 2002 :
Attorney Docket No.: 9046-053-999 :

Dear Qingbo Li:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47, ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (703) 305-9199.

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

Counsel of Record:
Formerly:
JULIUS C. FISTER III
PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON DC 20006

Updated Address:
JULIUS C. FISTER III
FISH & RICHARDSON
11TH FLOOR
1425 K STREET NW
WASHINGTON DC 20005-3500

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QINGBO LI
2234 AUTUMNWOOD DRIVE
STATE COLLEGE, PA 16803

In re Application of
Guo, et al.
Application No. 10/287,826
Filed: November 5, 2002
Atty. Dkt. No.: 9046-046-999
For: SYSTEM AND METHOD FOR TEMPERATURE GRADIENT CAPILLARY ELECTROPHORESIS

LETTER

COPY MAILED
APR 2 1 2003
OFFICE OF PETITIONS

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON, DC 20006

COPY MAILED

APR 2 1 2003

OFFICE OF PETITIONS

In re Application of
Guo, et al.
Application No. 10/287,826
Filed: November 5, 2002
Atty. Dkt. No.: 9046-046-999
For: SYSTEM AND METHOD FOR TEMPERATURE GRADIENT CAPILLARY ELECTROPHORESIS

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 4, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Qingbo Li 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 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

OFFICE

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AUG 2 9 2006

Director's Office
Office of Patent Publication

MCQUAIDE BLASKO
811 UNIVERSITY DRIVE
STATE COLLEGE PA 16801

In re Application of :
GUO, ZHIYONG, et al. :
Application No. 10/287,826 : **DECISION ON PETITION**
Filed: November 5, 2002 :
Attorney Docket No. 61011-026001 :

This is a decision on the Petition Pursuant to 37 C.F.R. 1.181 (Petition To Withdraw Holding Of Abandonment), received in the United States Patent & Trademark Office (USPTO) on April 17, 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 August 30, 2005. The Notice of Abandonment, mailed on April 6, 2006 indicates, "The submitted fee of $300 is insufficient. A balance of $1,400 is due."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on November 30, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 50-1740. On December 1, 2005, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

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. 163.

Nina D. Motley

Nina D. Motley
Quality Operations Assistant
Office of the Director
Office of Patent Publications

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

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JAN 0 9 2007

OFFICE OF PETITIONS

MCQUAIDE BLASKO
811 UNIVERSITY DRIVE
STATE COLLEGE, PA 16801

In re Application of :
Zhiyong Guo, et al. :
Application No. 10/287,826 : ON PETITION
Filed: November 5, 2002 :
Attorney Docket No. 61011-026001 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 8, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before November 30, 2005. A Notice of Abandonment was mailed on April 6, 2006. In response, on September 8, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 8, 2010

TO SPE OF : ART UNIT 1724
SUBJECT : Request for Certificate of Correction for Appl. No /10/287859 / Patent no.7338607

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

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 ENTER

DUANE SMITH
SUPERVISORY PATENT EXAMINER

4/9/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 30, 2009

TO SPE OF : ART UNIT 1724
SUBJECT : Request for Certificate of Correction for Appl. No.:10/287859 Patent no. 7338607

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

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 ENTER

DUANE SMITH
SUPERVISORY PATENT EXAMINER

4/9/10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WK

PAPER NO. 9

In re Application of	:	
Somit Talwar et. al	:	
Serial No:10/287,864	:	PETITION UNDER
Filed: November 6, 2002	:	M.P.E.P. 708.02, IV
For: LASER SCANNING APPARATUS AND	:	
METHODS FOR THEMAL PROCESSING	:	

This is in response to the petition filed November 06, 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.**

JMStone

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

Peters, Verny, Jones & Schmitt, L.L.P.
385 Sherman Ave., Suite 6
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GENERAL ELECTRIC COMPANY
CRD PATENT DOCKET RM 4A59
M.N. SALAMONE
P.O. BOX 8, BLDG. K1
SCHENECTADY, NY 12301

COPY MAILED

JUL 25 2005

OFFICE OF PETITIONS

In re Application of :
Robert D. King, et al. :
Application No. 10/287,869 :
Filed: November 6, 2002 :
Attorney Docket No. RD-28,508-7 :

ON PETITION

This is a decision on the petition, filed July 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid September 28, 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

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

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

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

The application will be forwarded to Technology Center AU 2834 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

cc: General Electric Company
GEGR Patent Docket Rm
S. R. Ross
Bldg. K 1 4A59
One Research Circle
Niskayuna, NY 12309

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : July 25, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Robert D. King, et al.
Application No. : 10/287,869
Filed : November 6, 2002

The above-identified application has been assigned Patent No. 6,924,564 and an issue date of August 2, 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 2, 2005:

> "All reference to Patent No. 6,924,564 to ROBERT D. KING, ET AL. of NEW YORK for LOW-ENERGY STORAGE FAST-START UNINTER-RUPTIBLE POWER SUPPLY METHOD appearing in the Official Gazette of August 2, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 6,921,388
Inventor(s) : Kirk Swenson
Issued : July 26,2005
Title : NEEDLE ASSEMBLY
Docket No. : P-5737

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 petition, under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, 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 petition to correct the Assignee under 37 CFR 1.183 should include:

A. the petition fee set forth in 37 CFR 1.117(h) (currently $130);
B. a request that 37 CFR 3.81(a) be waived to permit the correct name of the assignee to be provided;
C. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
D. 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 Petition, Applicant(s) may request that the file is forwarded to Certificates of Correction Branch, for issuance of a Certificates of Correction, if the Petition is granted.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Mail Stop: Petitions
Alexandria, VA 22313

By Fax: (703) 308-6916
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

Ennis Young
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext.117** or (703) 305-8228

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-06

DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

COPY MAILED

MAY 15 2006

OFFICE OF PETITIONS

In re Patent No. 6,921,388	:	
Issued: 26 July, 2006	:	
Application No. 10/287,895	:	ON PETITION
Filed: 4 November, 2002	:	
Atty Dckt No. P-5737	:	

This is a decision on the petition filed on 5 August, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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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George H. GATES
GATES & COOPER, LLP
Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, CA 90045

MAILED

MAR 17 2006

Technology Center 2100

In re Application of:	)	
Markos Zaharioudakjs et al.	)	
Application No. 10/287,924	)	**DECISION ON PETITION**
Filed: November 5, 2002	)	**UNDER 37 CFR § 1.181**
For: OPTIMIZING CORRELATED	)	
QUERIES USING AUTOMATI	)	
SUMMARY TABLES	)	

This is a decision on the petition, filed November 16, 2005, under 37 C.F.R. § 1.181(a) to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed November 3, 2005.

The Office action mailed February 24, 2006 indicated that the Final rejection mailed November 3, 2005 has been withdrawn by the Examiner.

The petition is **DISMISSED as MOOT**.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-20-06

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 7127772 B2 (10/287938

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.

Should claim be changed? Yes

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:

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

SPE

1744
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/287,947	11/05/2002	2663	2018	5347-2	3	77	6

CONFIRMATION NO. 2292

COHEN PONTANI LIEBERMAN & PAVANE
551 Fifth Avenue
New York, NY 10176

CORRECTED FILING RECEIPT

OC000000011745019

Date Mailed: 01/22/2004

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

Applicant(s)

Dan Aleksandrowicz, Modiyin, ISRAEL;

Assignment For Published Patent Application

Galileo Technology Ltd., D.N. Misgav, ISRAEL;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/10/2002

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Context-switching multi channel programmable stream parser

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

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FEB 20 2003

OFFICE OF PETITIONS

In re Application of KIKUCHI et al. Application No. 10/287,966 Filed: November 4, 2002 Attorney Docket No. SIW-057	: : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed February 10, 2003, requesting that the above-identified application be accorded a filing date of November 4, 2002, rather than the presently accorded filing date of November 5, 2002.

Petitioner alleges that the application was deposited in Express Mail service on November 4, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL931679826US. Although the "date-in" indicated on the Express Mail label is illegible, the label contains a United States Postal Service (USPS) stamp of November 4, 2002. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. The $130.00 petition fee will be credited to Deposit Account No. 12-0080, as requested.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to November 4, 2002, and the mailing of a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina T. Tartera

Christina T. Tartera
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

MAIL

APR 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ROBERT C. KLINGER
JACKSON WALKER LLP
SUITE 600
2435 NORTH CENTRAL EXPRESSWAY
RICHARDSON, TX 75080

In re Application of: MUSA
Application No. 10/288,005
Filed: November 5, 2002
For: HANDHELD WIRELESS CONFERENCING TECHNOLOGY

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(II)

This is a decision on the petition filed November 15, 2004 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(II): Infringement, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section II which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) A statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(1) That there is an infringing device or product actually on the market or method in use;

(2) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(3) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

(c) Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

Petition to Make Special **GRANTED;** since, all of the requirements for special status under MPEP § 708.02(II) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section II. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner 4/8/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FEB 05 2007

OFFICE OF PETITIONS

Lester J. Vincent
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

In re Application of	:
Meagley	: DECISION ON PETITION
Application No. 10/288,021	:
Filed: November 4, 2002	:
Atty. Dkt. No.: 42P14703	:

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed February 14. 2006. The final Office action set a three month shorted statutory period of time for reply. This decision precedes Notice of Abandonment.

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

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

The Notice of Appeal filed August 21, 2006 has been entered and made of record. Accordingly, the two (2) month period for filing the appeal brief in compliance with 37 CFR 1.192 runs from the mail date of this decision.

Application No. 10/288,021

This application will be forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DARRYL SPRINGS
DIVISION INTELLECTUAL PROPERTY COUNSEL
BAKER ATLAS DIVISION OF BAKER HUGHES INCORPORATED
P.O. BOX 1407
HOUSTON, TX 77251

COPY MAILED

MAR 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Reese et al.	:	
Application No. 10/288,032	:	ON PETITION
Filed: November 5, 2002	:	
Attorney Docket No. 584-28765 US (102.47)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 8, 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 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 14, 2004. A Notice of Abandonment was mailed on January 20, 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

Technology Center 1700.

JUL 27 2004

Mailed:_____

rvk

Paper Number:_____

In re application of
Kevin Donohoe
Serial No. 10/288,047
Filed: November 05, 2002
For: PLASMA REACTOR :

DECISION ON PETITION

This is a response to the "PETITION TO HAVE EXAMINER RECONSIDER NOTICE OF ABANDONMENT PURSUANT TO 37 C.F.R. 1.181(a)", filed October 15, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 08, 2003, for failure to timely file a proper response to the Office letter dated March 27, 2003 be withdrawn. The petitioner asserts that applicant timely filed a proper response and a Petition for Extension of Time to the Office letter of March 27, 2003 on September 26, 2003.

DECISION

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

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicant did file the proper response to the Office letter of March 27, 2003 in a timely manner. The evidence provided includes : 1) copies of the Amendment, Petition for Extension of a three-month Time and Terminal Disclaimer all with an executed Certificate of Express Mail; 2) a copy of the Express Mail receipt dated September 26, 2003 ; and 3) a copy of the returned stamped postcard confirming receipt of the Amendment, Petition for Extension of Time and Terminal Disclaimer by the USPTO dated September 26, 2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The case will be forwarded to the Technical Support Staff for entering of the Response and Terminal Disclaimer dated September 26, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

TERRIL G. LEWIS
WONG CABELLO,LLP.
20333 SH 249, SUITE 600
Houston, TX 77057-2198

UNITED STATES 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 25, 2010

Patent No. :7172619
Inventor :Jacob Richter
Patent Issued :February 6, 2007
Title :SINGLE OPERATOR STENTING SYSTEM

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.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining column 4, line 55; the requested change broadens the scope of an allowed claim. Air is a fluid, as is saline. Both are recognized by one of ordinary skill in the art as balloon inflation mediums (as well as others). However, "air pressure" was claimed and fluid would broaden the scope, if claimed which is a matter for Rexxam. A mistake is not considered to be of the minor character required for the issuance of a certificate of correction if the requested change would materially affect the scope or meaning of the patent.. MPEP 1481.

Accordingly, 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

Andrew Chien
Cadwalader, Wickersham & Taft LLP,
One World Financial Center,
New York, NY 10281

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

JAN 22 2003

Office of the Director
Group 3600

Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

In re Application of
Avron Rosenberg
SERIAL NO: 10/288,053
FILED: November 5, 2002
FOR: KINGPIN LOCKING DEVICE

: DECISION ON PETITION
: TO MAKE APPLICATION
: SPECIAL (AGE)

This is a decision on your petition submitted on November 5, 2002 to make the above-referenced application special on the basis that applicant is over 65 years of age.

The petition has been found to comply with all requirements of section 708.02, part IV Of the Manual of Patent Examining Procedures, and will be GRANTED for that reason.

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.

The application is being forwarded to the examiner for accelerated examination consistent with the provisions of section 708.02 of the MPEP.

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

rjb:1/14/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/7/09

TO SPE OF : ART UNIT 2416 Phan, Tri

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/288065 Patent No.: 7400582

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: _____

SPE

2416
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 27, 2006

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/288072 patent No.: 7,091,359

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: _____

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 27, 2006

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/288072 patent No.: 7,091,359

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: _____

JOSEPH K. MCKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1626

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1101 Market Street
2600 Aramark Tower
Philadelphia, PA 19107-2950

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SEP 25 2006
OFFICE OF PETITIONS

In re Patent No. 6,852,308	:	
Issued: February 8, 2005	:	
Application No.: 10/288,076	:	ON PETITION
Filed: November 5, 2002	:	
Attorney Docket No: **P22,591-A US1**	:	

This is a regarding the "Paper to Correct Deficiency of Issue Fee Payment under 37 CFR 1.28(c)" filed April 10, 2006, which will be treated as a petition under 37 CFR 1.28(c).

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

The application file will be directed to the Files Repository.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

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OFFICE OF PETITIONS

In re Application of	:	
Seppo Vihinen	:	
Application No. 10/288,091	:	ON PETITION
Filed: November 5, 2002	:	
Attorney Docket No. 012.P28009	:	

This is a decision on the petition filed on February 22, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on June 3, 2005. Applicants filed an Amendment on November 3, 2005, made timely by obtaining a two month extension of time. However, on January 13, 2006, the Office mailed an Advisory Action, informing Applicants that the Amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, no further reply with an extension of time having been received, the application became abandoned on November 4, 2005.

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

The $1,500 petition fee and $790 RCE fee have been charged to Deposit Account No. 50-3703, as authorized.

The matter is being forwarded to Group Art Unit 2628 for consideration of the RCE, filed February 22, 2006.

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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1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

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DEC 1 2 2003

OFFICE OF PETITIONS

Applicant: Gu et al.
Appl. No.: 10/288,107
Filing Date: November 5, 2002
Title: RECOMBINANT BIOLUMINESCENT BACTERIA ESCHERICHIA COLI DH5@/PSODALUX (EBHJ1) [KCTC 10098BP] FOR MONITORING OXIDATIVE STRESS
Attorney Docket No.: 10981-025-999
Pub. No.: US 2003/0134348 A1
Pub. Date: July 17, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on September 16, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the title of the invention is missing the symbol "@" between "Coli DH5" and "Psodalux" on the front page of the patent application publication and on the first page of the specification.

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 error is clearly a minor typographical error, as the omission of the phrase "@" between "Coli DH5" and "Psodalux" on the front page of the patent application publication and on the first page of the specification is clearly understandable from reading the specification. The mistake is in the title and the title of the invention is still clearly understandable and it does not affect ones ability to understand the technical disclosure of the application. 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.

Applicant's request for a corrected patent application publication on September 16, 2003, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing 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

---

[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).

requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions should be addressed as follows:

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

By facsimile: 703-305-8568

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta

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

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COMMISSIONER FOR PATENTS
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JAMES M. URZEDOWSKI
VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 2000
6109 BLUE CIRCLE DRIVE
MINNETONKA, MINNESOTA 55343-9185

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Holman et al.	:	
Application No. 10/288,185	:	DECISION ON PETITION
Filed: November 5, 2002	:	37 CFR 1.137(b)
Attorney Docket No. S63.2-4870-US05	:	

This is a decision on the petition under 37 CFR §1.137(b), filed June 17, 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 December 1, 2004, which set a shortened statutory period for reply of three (3) months. A two-month extension of time was obtained pursuant to the provisions of 37 CFR §1.136(a) with the response filed May 2, 2005. The response failed to place the application in condition for allowance. The date of abandonment of this application is May 2, 2005. An RCE was filed on June 17, 2005 with a request for a three-month extension of time.

A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance, an RCE or a Notice of Appeal (and appeal fee required by 37 CFR §1.17(b)). The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (RCE and amendment); (2) the petition fee of $1500.00 (for a large entity); and (3) the required statement of unintentional delay have been received. Accordingly, the request for an RCE is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the request for a three-month extension of time submitted with the petition was subsequent to the maximum period obtainable for reply, the request is unnecessary. The petition fee of $1500 and the RCE filing fee of $790 will be charged to petitioner's deposit account no. 22-0350.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to Technology Center AU 3738 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

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OFFICE OF PETITIONS

In re Application of
Holman et al.
Application No. 10/288,185
Filed: November 2, 2002
Attorney Docket No. S63.2-10175

: DECISION TREATING DUPLICATE
: PETITION UNDER 37 CFR 1.137(b)

This is a communication responsive to the refiling on September 22, 2005, by facsimile transmission, of a duplicate copy of the petition under 37 CFR 1.137(b) and other related papers originally filed on June 17, 2005.

The petition is **dismissed**.

The petition filed June 17, 2005 was granted in the decision mailed September 21, 2005, the day before applicants re-submitted the same papers. Accordingly, this application has been restored to pending status, and no further petition is required

This application is being referred to the Technology Center for such treatment of the duplicate papers as it considers proper.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Terry L. Miller
24832 Via SanFernando
Mission Viejo CA 92692

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APR 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION
Penner	:	ON PETITION
Application No. 10/288,202	:	
Filed: November 4, 2002	:	
Attorney Docket No. 2002-018	:	
For: RIDGE COVER AND METHOD OF MAKING		

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2005 (certificate of mailing date May 23, 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)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to timely and properly reply to the final Office action, mailed July 28, 2004, which set an extendable three month period for reply. No extensions of time were obtained and no reply was filed. Therefore, the application became abandoned on October 29, 2004. A Notice of Abandonment was mailed on March 7, 2005.

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.;

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

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

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

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

Petitioner is reminded that after a final Office action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

Petitioner's May 25, 2005 (certificate of mailing date May 23, 2005) amendment after final failed to place this application in *prima facie* condition for allowance, as stated in the enclosed Advisory Action.

Therefore, petitioner has NOT filed a proper reply to the July 28, 2004 final Office action. The application remains abandoned.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: Advisory Action Before the Filing of an Appeal Brief

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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www.uspto.gov

Terry L. Miller
24832 Via SanFernando
Mission Viejo CA 92692

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JUL 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Penner	:	DECISION
Application No. 10/288,202	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. 2002-018	:	
For: RIDGE COVER AND METHOD OF MAKING		

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed June 12, 2006, to revive the above-identified application.

This application became abandoned for failure to timely and properly reply to the final Office action, mailed July 28, 2004, which set an extendable three month period for reply. No extensions of time were obtained and no reply was filed. Therefore, the application became abandoned on October 29, 2004. A Notice of Abandonment was mailed on March 7, 2005.

Petitioner has submitted an amendment in response to the July 28, 2004 final Office action that substantially places the application in condition for allowance, an acceptable statement of the unintentional nature of the delay in responding to the July 28, 2004 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 A.U. 3636 for further processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

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OFFICE OF PETITIONS

In re Application of :
Ronald E. Kelbert, et al. :
Application No. 10/288,219 :
Filed: November 4, 2002 :
Attorney Docket No. 17939A :

ON PETITION

This is a decision on the petition, filed September 2, 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 17, 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 3653 for further processing of the request for continued examination under 37 CFR 1.114 filed September 2, 2004.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 24, 2006

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction on Patent No.: 6,936,251/10288220

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.

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

Comments:

Changes to Section 73 supported by Assignee info in PALM. Indicated foreign reference initialed & considered in IDS scanned 10/1/03. Source of line through document not clear, but indication on page 3 of 10/1/03 action that reference was considered as part of IDS.

James C. Housel — **SPE**

1648 — **Art Unit**

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. 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. : 6,936,251 B2

DATED : August 30, 2005

INVENTOR(S) : Middeldorp 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 Title Page,
Section 73 should read -- Assignee: **bioMerieux, B.V.**, Boxtel (NL) --

Section 56, FOREIGN PATENT DOCUMENTS, should include
-- WO WO 96/01321 1/1996 --

MAILING ADDRESS OF SENDER:
Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

PATENT NO. 6,936,251
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 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: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

JAN 11 2006

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UNITED STATES DEPARTMENT OF COMMERCE
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Bryan K. Wheelock
Harness, Dickey & Pierce, P.L.C.
Suite 400
7700 Bonhomme Avenue
St. Louis, MO 63105

Mail Date: 04/21/2010

Applicant	: Peter R. Werp	: DECISION ON REQUEST FOR
Patent Number	: 7625382	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/288,231	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **851** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

MAILED

APR 22 2003

OFFICE OF DIRECTOR
GROUP

Inna Landsman
Law Office of Inna Landsman
One Broadway, Suite 600
Cambridge, MA 02142

In re Application of:
Martin Annis
Application No. 10/288,244
Filed: November 05, 2002
For: PERSONNEL INSPECTION
SYSTEM WITH X-RAY LINE SOURCE

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed January 10, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.)
§ 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a Declaration by Martin Annis stating that applicant is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

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

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.
Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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DENNIS F. ARMIJO, ESQ.
DENNIS F. ARMIJO, P.C.
6300 MONTANO RD., NW
SUITE D
ALBUQUERQUE, NM 87120

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OFFICE OF PETITIONS

In re Application of
Martin Annis
Application No. 10/288,244
Filed: November 5, 2002
Attorney Docket No. ANNIS-0005

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 23, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 24, 2004.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Publishing Division.

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

Attachment: PTOL-85(b)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/17/06

TO SPE OF : ART UNIT 3754

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/288245** Patent No.: **6974054**

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

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

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

_____
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

Kevin P Shaver — **SPE**

3754 — **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

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. 10/288,256
Filed:November 4, 2002
Attorney Docket No. 2479.2050-002
For: FOLDING 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAM 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. 10/288,256 Filed:November 4, 2002 Attorney Docket No. 2479.2050-002 For: FOLDING 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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 02, 2006

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/288272 Patent No.: 7,032,351 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 DUNN
SUPERVISORY PATENT EXAMINER
SPE

3636
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:
Robert G. Korneluk et al.	: LETTER REGARDING PTA
Application No. 10/288,273	: and
Patent No. 6,946,544	: NOTICE OF INTENT TO ISSUE
Filed: November 5, 2002	: CERTIFICATE OF CORRECTION
Issued: September 20, 2005	:
Atty. Dkt. No.: 07891/010006	:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705", filed November 23, 2005. Patentees request that the determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction 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 **one hundred eighty-nine (189)** days.

The patent issued on September 20, 2005, with a revised patent term adjustment of one hundred ninety-four (194) days. The Office determined a patent term adjustment of One hundred ninety-four (194) days based on an adjustment for PTO delay of two hundred seventy-nine (279) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by eighty-

five (85) days of patentee delay pursuant to 37 C.F.R. §1.704(b).

A review of the record reveals that Patentees should have been assessed a delay of ninety (90) days, not eighty-five (85) days. A Notice to File Missing Parts of Nonprovisional Application (notice) was mailed on November 26, 2002. A proper reply was filed on May 27, 2003, along with a four-month extension of time.

37 C.F.R. § 1.703(f) states, *in toto*:

(f) The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. <u>The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation</u> (emphasis added).

The response contained a certificate of mailing dated May 22, 2003, which is eighty-five days in excess of the three-month period following the mailing of the notice. As such, the Office incorrectly assessed a period of delay from the certificate of mailing date.

Therefore, Patentees should have been assessed delay for the period from May 27, 2003 (the date the response was received in the Office, pursuant to 37 C.F.R. § 1.703(f)), or 90 days.

In view thereof, the patent should have issued with a revised PTA of one hundred eighty-nine (189) days (279 days of PTO delay, reduced by 90 days of Patentee delay).

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 fee under 37 C.F.R. §1.18(e). The Office thanks patentee 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. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED EIGHTY-NINE (189) days.

Telephone inquiries specific to this letter should be directed to Senior Attorney Paul Shanoski, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,946,544 B2

DATED : September 20, 2005 **DRAFT**

INVENTOR(S) : Korneluk 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 (194) days

Delete the phrase "by 194 days" and insert – by 189 days--

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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Patrick Reilly
Box 7218
Santa Cruz, CA 65061-7218

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OFFICE OF PETITIONS

In re Application of	:	
Earl William Sausen	:	DECISION GRANTING PETITION
Application No. 10/288,274	:	
Filed: November 5, 2002	:	
Attorney Docket No. STTI-03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on March 28, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on June 29, 2005. A Notice of Abandonment was mailed on July 7, 2006. Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **GRANTED.**

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/01/06

TO SPE OF : ART UNIT 2631

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/288286** Patent No.: **7023946**

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

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

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

Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: The Corrections are necessary for correcting the Office's errors.

SPE — Art Unit 2611

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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JJGJR.: 08-05

Paper No: __

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BEIT HAROFIM
18 MENUHA VENAHALA STREET, ROOM 27
REHOVOT
ISRAEL

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SEP 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Sansolo	:	
Application No. 10/288,306	:	DECISION
Filing Date: 6 November, 2002	:	
Attorney Docket No. 1236SAN-US	:	

This is a decision on the petition filed on 17 August, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 14 April, 2004, with reply due absent extension of time on or before 14 July, 2004;

- on 6 August, 2004, Petitioner filed (contemporaneously with a request and fee for an extension of time) an after-final amendment, which the Examiner found was not a proper reply (in that it did not *prima facie* place the application in condition for allowance[1]), and on 28 September, 2004, the Examiner mailed an Advisory Action;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or RCE (with fee and submission). (See: MPEP §711.03(c).)

- the application went abandoned after midnight 14 August, 2004;
- the Office mailed the Notice of Abandonment on 13 July, 2005;
- Petitioner filed on 13 October, 2004, a request for continued examination (RCE) with fee and pointed to the after-final amendment as the submission under 37 C.F.R. §1.114, however, that filing was after abandonment as set out above;
- with the existing petition (with fee) alleging unintentional delay, Petitioner points to the RCE with fee and submission previously filed as his reply, and makes the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to Unintentional Delay

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

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

---

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,089,248	:	
King et al.	:	DECISION ON REQUEST FOR
Issue Date: August 8, 2006	:	RECONSIDERATION OF PATENT
Application No. 10/288,322	:	TERM ADJUSTMENT AND
Filed: November 4, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 07844-557001	:	CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(d)," filed October 10, 2006. Patentee requests that the patent term adjustment indicated in the Issue Notification (and in the patent) be corrected from five hundred sixty-six (566) days to six hundred twelve (612) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of six hundred twelve (612) days.

On August 8, 2006, Application No. 10/288,322 matured into Patent No. 7,089,248. The instant request for reconsideration filed October 10, 2006, was timely filed within two months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 566 days. The PTA of 669 days indicated in the notice of allowance was reduced by 103 days pursuant to 37 CFR § 1.704(c)(10) for the submission of an amendment under § 1.312 after the mailing of the notice of allowance.

Patentee asserts that the reduction of the patent term adjustment for filing the amendment under § 1.312 after the mailing of the notice of allowance pursuant to 37 CFR § 1.704(c)(10) should be calculated as 47 days, not 93 days. Patentee contends that the period from the May 8, 2006 filing date of the amendment under § 1.312 and the June 23, 2006 mailing date of the notice in Response under § 1.312, is 47 days, not 93 days.

Patentee's contention is well taken.

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;

In view thereof, the patent term adjustment indicated on the patent should be six hundred twelve (612) days.

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

This matter is being referred 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 SIX HUNDRED TWELVE (612) days

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,089,248 B1

DATED : August 8, 2006

INVENTOR(S) : King 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 (566) days

Delete the phrase "by 566 days" and insert – by 612 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of
Ming-Jeng Shue et al. :
Application No. 10/288,351 : ON PETITION
Filed: November 4, 2002 :
Attorney Docket No. 087951-000100US :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed January 5, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed January 25, 2005. A shortened statutory period of three months was set for replying Final Office Action. Petitioners were notified in an Advisory Action mailed September 22, 2005 that a response filed June 30, 2005 with a two month extension of time request, did not place the application in condition for allowance. Thus, the application became abandoned April 26, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

---

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

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

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

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

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

In response to the Final Office Action mailed January 25, 2005, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3763 for processing of the RCE and submission.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/01/06

TO SPE OF : ART UNIT **2854**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/288357 6957608

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:

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — **Art Unit** 2854

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Look, Thomas F.
Application No. 10/288,396
Filed: November 5, 2002
Attorney Docket No. 57252US005

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 5, 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 September 25, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 27, 2003.

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

On October 1, 2003, certain patent fees were increased. The issue fee increased from $1300.00 to $1330.00. Accordingly, an additional $30.00 has been charged to petitioner's deposit account as authorized.

The file is now being forwarded to the Publishing Division for processing into a patent.

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

In re Patent No. 6937210
Issue Date: August 30,2005
Application No. 10288436
Filed: November 6,2002
Attorney Docket No. DOC 22 - 04

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

This is a decision on the electronic petition, filed June 24,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 24,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6937210	2005-08-30	10288436	2002-11-06	

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/William B. Bendel/	Date (YYYY-MM-DD)	2010-06-24
Name	William B. Bendel		
Enter Reel and Frame Number		Remove	
Reel Number	013739	Frame Number	0865
Click ADD for additional Reel Number and Frame Number		Add	

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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WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Shinichi Hayashi et al :
Application No. 10/288,438 : ON PETITION
Filed: November 6, 2002 :
Attorney Docket No. 626.1008DD

This is a decision on the petition filed, October 13, 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 21, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3661 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

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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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OFFICE OF PETITIONS

In re Application of :
Shinichi Hayashi et al :
Application No. 10/288,438 :
Filed: November 6, 2002 :
Attorney Docket No. 626.1008DD :

ON PETITION

This is a decision on the petition, filed April 27, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 27, 2007in 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 3661 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

In re Application of	:	
Tsuyoshi Aoki et al	:	
Application No. 10/288,476	:	DECISION GRANTING PETITION
Filed: November 6, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1077.1013	:	

This is a decision on the petition, filed May 8, 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 10, 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 2883 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\277476.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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NOV 16 2004

OFFICE OF THE DIRECTOR
TC 3600

MICHAEL S. NEUSTEL
2534 South University Drive
Suite No. 4
Fargo, ND 58103

In re application of
Peter C. Sigrist et al
Application No. 10/288,479
Filed: November 04, 2002
For: CONDUIT SEALING SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on September 09, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition C) there is no longer 30 days for the applicant to respond to the outstanding Office action mailed May 28, 2004.

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

SNM/pav: 11/08/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-9-07

TO SPE OF : Technology Center 1743

10/2884/83

SUBJECT : Request for Certificate of Correction on Patent No.: 7163827 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.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

_____

_____

_____

_____

_____

Jill Warden — **SPE**

1743 — **Art Unit**

10/288 486

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-14-05

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction on Patent No.: 6897478

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

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.

- ☒ **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

2811
Art Unit

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OFFICE OF PETITIONS

In re Application of	:	DECISION
Garner et al.	:	ON PETITION
Application No. 10/288,487	:	AND
Filed: November 6, 2002	:	NOTICE OF
Atty Docket No. 05233.0004.CNUS04	:	ABANDONMENT

This is a decision on the Petition filed September 13, 2005, and supplemented on September 14, 2005 and September 16, 2005, requesting waiver of 37 CFR 1.821 to allow submission of deposit information regarding biological deposits.

Background

A non-final Office action was mailed to Petitioner on June 28, 2004. The non-final Office action informed Petitioner, *inter alia*, that bacterial strains essential to the invention cited in claims 35-36, 38-39 and 44-47, "must [] be obtainable by a repeatable method set forth in the specification or otherwise be readily available to the public. If the microorganism (s) is not so obtainable or available, a deposit of the microorganism (s) in a recognized depository may satisfy the requirements of 35 U.S.C. 112."

The Office action further provided Petitioner with instructions the steps necessary to certify that the deposit meets the criteria set forth in 37 CFR §§ 1.801 - 1.809, and Petitioner was specifically directed to 37 CFR 1.807(b), and 1.809(d). Thus Petitioner was aware of the required contents of a viability statement submitted for biological material defined in 37 CFR 1.807(a), and petitioner was also informed that, as per 37 CFR 1.809(d),

"For each deposit made pursuant to these regulations, the specification shall contain:

(1) The accession number for the deposit;

(2) The date of the deposit;
(3) A description of the deposited biological material sufficient to specifically identify it and to permit examination; and
(4) The name and address of the depository.

Subsequently, a Notice of Allowance and Notice of Allowability were mailed to Petitioner on March 28, 2005. Paragraph 3 of the Notice of Allowability ("Notice") provided that

> [t]his application is otherwise in condition for allowance except for a needed deposit and the Office has received written assurance that an acceptable deposit will be made on or before payment of the issue fee. Pursuant to 37 CFR § 1.809(c), applicant is hereby required to make the needed deposit within three months from the mailing date of this action. Furthermore, during an interview on 3/14/2005 with Mr. A.M. (Andy) Arismedi, Jr., Applicant's representative, the Office received a verbal assurance that an acceptable deposit/written declaration will be made available on or before payment of the issue fee. Pursuant to 37 CFR §1.809(c), applicant is hereby required to file the needed deposit/declaration within three months from the mailing date of this action. **The period for satisfying this requirement is not extendable under 37 CFR § 1.136. Failure to make the needed deposit/declaration in accordance with this requirement will result in abandonment of the application for failure to prosecute.**

The instant petition

Petitioner files the instant petition and asserts that, despite having acted with due diligence to make the required deposits, "the required deposits could not be made by the deadline set by the Examiner in the Notice of Allowability." Petitioner provides that they "were not in possession of strains L411, P9 or P42 at the time that Applicant's were informed of the requirements to file these deposits" *Petition* at p.2. Applicant's made the request for L411, P9 or P42 on May 11, 2005. On June 30, 2005, L411, P9 and P42 were sent to ATCC. A copy of an amended ATCC form regarding deposits according to the Bhudapest Treaty was issued by ATCC on June 29, 2005 for PF24. A fax with the deposit designations for L411, P9 and P42 was received from the ATCC on July 11, 2005.

Petitioner supplemented this petition on September 14, 2005, requesting substitution of the Exhibits filed in the September 13, 2005 petition with replacement Exhibits. Petitioner then

supplemented the September 13, 2005 petition on September 16, 2005, with the ATCC form regarding deposits according to the Bhudapest Treaty corresponding to strains L411, P9 and P42 received on September 16, 2005[1].

Analysis

A review of the file reveals that the Notice of Allowability was mailed on March 28, 2005, and set a non-extendable three (3) month period for reply. Applicant's made the request for L411, P9 or P42 on May 11, 2005, approximately six (6) weeks after the mail date of the Notice of Allowance. While Petitioner asserts the exercise of due diligence, Petitioner fails to account for this period of delay. Moreover, Petitioner was on notice of the requirement contained in 37 CFR 1.809(d), that

"[f]or each deposit made pursuant to these regulations, the specification shall contain:

(1) The accession number for the deposit;
(2) The date of the deposit;
(3) A description of the deposited biological material sufficient to specifically identify it and to permit examination; and
(4) The name and address of the depository.

As such, Petitioner was on Notice more than eight (8) months prior to the mailing of the Notice, that the ATCC deposit designations would be required in the application.

Subsequently, when Petitioner received the Notice of Allowability, there was an unexplained delay of approximately six(6) weeks before requesting the strains necessary to make the deposits and subsequently receive the ATCC deposit designations.

Initially, it is brought to applicants' attention that abandonment of an application occurs by operation of law for failure to reply. See *e.g.*, 35 U.S.C. 133. That is, 35 U.S.C. 133 is a self-executing statute. If this (and it is not here determined) or any application is in fact abandoned, then the patent statute also provides a specific remedy for that condition--revival. *See* 35 U.S.C. §§ 41(a)(7), 111, 133, and 151. However, a standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. *See*

[1]Petitioner provides that the ATCC deposit designations are the same as in the fax supplied on September 14, 2005 as corrected Exhibit D.

National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); *See, also, Botany Worsted Mills v. United States*, 278 U.S. 282, 289 (1929)("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode"). Since Congress has provided in Public Law 97-247 a specific scheme for the revival of abandoned applications (*i.e.*, the specific situations under which the PTO may revive an abandoned application and the specific requirements (fee amounts and standards) applicable to each specific situation), the creation of other schemes such as a petition under 37 CFR 1.183 or 1.182 to obviate abandonment per se, or to create an alternate means of revival of any abandoned application would be inconsistent with the patent statute. Thus, the Commissioner's authority to revive an abandoned application is limited to that specified in the statutory scheme set forth in 35 U.S.C. §§ 41(a)(7), 111, 133, and 151. *See Morganroth v. Quigg*, 885 F.2d 843, 847, 12 USPQ2d 1125, 1128 (Fed. Cir. 1989)(the Commissioner lacks the authority to revive an application abandoned by termination of court proceedings because 35 U.S.C. §§ 41(a)(7), 133, or 151 do not provide for the revival of an application abandoned in such a manner). If this application is in fact abandoned, it would not be appropriate to circumvent either the statutory provisions that automatically provide for abandonment of an application for failure to reply, or the statutory provisions that provide for revival of an abandoned application, by way of a petition under 37 CFR 1.183.

To the extent that the USPTO has any discretion in this matter, in order for grant of any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). In this instance, Applicant's delay of approximately six(6) weeks before requesting the strains necessary to make the deposits and subsequently receive the ATCC deposit designations, was a circumstance entirely within his control. The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. *See, Ex Parte Sassin*, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and *compare Ziegler v. Baxter v. Natta*, 159 USPQ 378, 379 (Comm'r Pat. 1968) and *Williams v. The Five Platters, Inc.*, 510 F.2d 963, 184 USPQ 744 (CCPA 1975).

37 CFR 1.183 should not be considered a panacea for tactical errors in prosecution. *See, Nitto Chem. Indus. Co. v. Comer*, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing or not filing papers). Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. *See, In re Tetrafluor, Inc.*, 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); *In re Bird & Son, Inc.* 195 USPQ 586, 588 (Comm'r Pats. 1977).

In any event, the USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. *See Cantello v. Rasmussen*, 220 USPQ 664, 664 (Comm'r Pat. 1982). Here, Petitioner may seek revival of the application under 37 CFR 1.137.

Accordingly, the petition is **dismissed**.

The application is **abandoned** for failure to timely reply to the Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	DECISION
Garner et al.	:	ON PETITION
Application No. 10/288,487	:	
Filed: November 6, 2002	:	
Atty Docket No. 05233.0004.CNUS04	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed December 21, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability (Notice), mailed March 28, 2005. The Notice required the deposit of and/or information about the deposit of biological matter. The Notice set a non-extendable statutory period for reply of three (3) months. No response to the Notice having been received, the application became abandoned June 29, 2005.

Applicant filed a petition to waive the rules under 37 CFR 1.183, and allow submission of deposit information regarding certain biological deposits after payment of the issue fee. The petition was dismissed in a Decision mailed December 6, 2005, for failing to meet the requirements of a grantable petition under 37 CFR 1.183. The December 6, 2005 Decision also informed Applicant that the application was abandoned.

Applicant files the instant petition to revive the application and has satisfied the requirements of a grantable petition under 37 CFR 1.137(b).

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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Technology Center 2100

McGinn & Gibb, PLLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182-3817

In re Application of: Teranishi	)	
Application No. 10/288,498	)	DECISION ON PETITION FOR
Attorney Docket No. 01-341330	)	SUPERVISORY REVIEW
Filed: 11/06/2002	)	UNDER *37 CFR §1.181*
For: INFORMATION RETRIEVAL	)	
SYSTEM AND INFORMATION	)	
RETRIEVING METHOD THEREFOR	)	

This is a decision on the petition under 37 CFR § 1.181, filed May 10, 2005, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed February 10, 2005.

The petition is **DISMISSED**.

RECENT PROSECUTION HISTORY

(1) On August 2, 2004, a non-final Office action, rejecting all pending claims (1-10), was mailed.

(2) On October 29, 2004, a response to the non-final Office action (including amendments to independent claims 1 and 7 along with adding new claims 11-20) was filed.

(3) On February 10, 2005, a final Office action, treating claims 1-20 on new art, was mailed.

(4) On May 10, 2005, an amendment, request for reconsideration and the instant petition were filed.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the withdrawal of the finality of the February 10, 2005 office action.

ANALYSIS

Initially it is noted that an extension of time for three months and a notice of appeal were filed on August 10, 2005.

A non-final Office action was issued on August 2, 2004, rejecting claims 1-10 under 35 USC § 102(b) as being anticipated by Guoreh Zhao (CN127106A). A response to the first Office action was timely filed and received in the Patent and Trademark Office (Office) on October 29, 2004. In the response, both independent claims 1 and 7 were amended and new claims 11-20 were added. A final Office action was issued February 10, 2005 rejecting all claims (1-20), in particular, rejection claims 1-11 under 35 USC § 103(a) as being unpatentable over Borovoy et al. (US 5,873,107) in view of Matsuda (US 6,718,333). This is a new grounds of rejection. The Examiner held that the amendment necessitated the new ground(s) of rejection and made this Office action final (see paragraph 7 therein). As per MPEP §706.07 (d), a request for reconsideration for withdrawal of the finality of the Office action was filed simultaneously with the proposed response after final rejection under 37 CFR §1.116, on May 10, 2005. The examiner has issued an advisory action (to be mailed simultaneously with this decision), which denies Applicant's request for withdrawal by maintaining the finality of the last Office action.

The relevant sections of the M.P.E.P. are set forth below:

MPEP § 706.07(a) states in part that:
Under present practice, second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record. Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

A review of the file record indicates that the new ground(s) of rejection presented by the Examiner in the final Office action of February 10, 2005 was in fact necessitated by the new limitations and/or amendment presented in independent claims 1 and 7 on October 29, 2004. Both independent claims 1 and 7 were amended on October 29, 2004 (at least) by changing the phrase "a record site of the contents" to --a site record of contents--. Such a change in context clearly changes the meaning of the recited phrase (see also Advisory Action mailed herewith for further discussion and support). This is also evidenced by Applicants remarks found on page 9 of the response which indicates "in Zhao there is no teaching or suggestion of '... extraction means for extracting keywords from an externally specified hypertext file; and retrieval means for retrieving ***a site record*** of contents using said keywords extracted by said extraction means', as is (now) required by claim 1" (and claim 7).

Finally, applicant cannot successfully argue both sides of the coin such that the amended language is now both 1) patentable over the prior art (as previously argued) and 2) "not at all directed to the purpose of overcoming the rejection of the Office action dated August 2, 2004 ... to Zhao" and "no claim amendments were necessary to overcome the rejection ... and that the amendments were clearly not so intended" (as stated in the instant petition).

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the final Office action of February 10, 2005 is **DISMISSED**.

The application file is being forwarded to the Examiner to await the filing of the Appeal Brief. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing of the Notice of Appeal (37 CFR 41.37(a)), or any extensions thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal.

Any inquiries related to this decision may be directed to Specials Program Examiner Brian Johnson at (571) 272-3595.

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

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1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Patent of :
Hemley, et al. :
Patent No. 6,858,078 :
Issue Date: February 22, 2005 : Decision on Petition
Application No. 10/288,499 :
Filing Date: November 6, 2002 :
Attorney Docket No. 056100-5007 :

This is a decision on the petition under 37 CFR 1.183, filed April 7, 2005, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is being treated as a request under 37 CFR 3.81(b) to accept the correction of the assignee data.

The request under 37 CFR 3.81(b) is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Pursuant to petitioners' authorization, deposit account no. 50-0310 was charged the required $100.00 certificate of correction fee and the required $130.00 processing fee.

Petitioners have met the requirements set forth above. Therefore, the request is granted.

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

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

E. Shirene Willis
Petitions Attorney
Office of Petitions

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401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki, et al. :
Application No. 10/288,516 :
Filed: November 6, 2002 :
Attorney Docket No. 740756-2553 :

ON PETITION

This is a decision on the petition, filed August 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 June 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2824 for further processing of the request for continued examination under 37 CFR 1.114 filed August 18, 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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WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/288,516	:	DECISION GRANTING PETITION
Filed: November 6, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2553	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 11, 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 January 17, 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) 272-3208.

This application is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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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INNOVATION MANAGEMENT SCIENCES
P. O. BOX 1169
LOS ALTOS, CA 94023-1169

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OFFICE OF PETITIONS

In re Application of:	:	
Lee et al.	:	
Application No. 10/288,529	:	DECISION ON
Filed: March 14, 2003	:	PETITION
Attorney Docket Number:	:	
CLR-01-01-02	:	

This is a decision in response to the Petition under 37 CFR 1.137(b), filed January 20, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office Communication mailed June 3, 2005. The Office Communication set a one (1) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned July 4, 2005. A Notice of Abandonment was mailed January 25, 2005.

With the instant petition, Petitioner has filed a Response to the Office communication. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3729 for processing of the Response in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

INNOVATION MANAGEMENT SCIENCES
P. O. BOX 1169
LOS ALTOS, CA 94023-1169

In re Application of David M. Lee, et al. Application No. 10/288,529 Filed: November 5, 2002 Attorney Docket No. CLR-01-01-02	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 7, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before April 10, 2007. A Notice of Abandonment was mailed on May 8, 2007. In response, on June 7, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $700 issue fee and the $300 publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications 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

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OFFICE OF PETITIONS

NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

In re Application of	:	
Shinya Takahashi et al	:	
Application No. 10/288,535	:	ON PETITION
Filed: November 6, 2002	:	
Attorney Docket No. 723-1347	:	

This is a decision on the petition, filed October 6, 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 28, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3714 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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OFFICE OF PETITIONS

In re Application of	:	
McMahon, et al.	:	
Application No. 10/288,556	:	DECISION ON PETITION
Filed: November 4, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. HUIP-P02-024	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed December 1, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to the prior-filed provisional application(s) set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional application(s). While a reference to the prior-filed provisional application(s) was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed provisional application(s) in the declaration filed with the application, as shown by inclusion on the filing receipt.

Petitioners' attention is directed to the Notice of Allowability mailed February 22, 2006 wherein the examiner sets forth applicants' entitlement to claim benefit of priority under 35 U.S.C. §

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

119(e) to the prior-filed application(s) and cancellation of reference to Provisional App. No. 60/026,155 as well as the corrected filing receipt enclosed herewith.

In view of the above, the $1,370.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Enclosed please find a corrected filing receipt. This application is being referred to the Office of Patent Publication for further processing.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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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
10/288,556	11/04/2002	1646	2008	HUIP-P02-024	13	73	17

CONFIRMATION NO. 8182

CORRECTED FILING RECEIPT

OC000000019886084

28120
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Date Mailed: 08/03/2006

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)

Andrew P. McMahon, Lexington, MA;
Pao-Tien Chuang, Cambridge, MA;

Power of Attorney: The patent practitioners associated with Customer Number **28120**.

Domestic Priority data as claimed by applicant

This application is a CON of 08/933,711 09/19/1997 PAT 6,514,724
which claims benefit of 60/026,155 09/20/1996

Foreign Applications

If Required, Foreign Filing License Granted: 12/16/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/288,556

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HEDGEHOG INTERACTING PROTEINS AND USES RELATED THERETO

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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1300 I STREET, NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Patent No. 7,053,124	:	
Issue Date: May 30, 2006	:	
Application No. 10/288,590	:	ON PETITION
Filed: November 6, 2002	:	
Patentee(s): Anthony Fred Mercurio	:	

This is a decision on the petition filed on May 25, 2006, which is being treated as a Request under 37 CFR 3.81[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 $130 processing fee needed for treatment of the instant request has been charged to petitioner's deposit account, as authorized.

In view of this decision, petitioner may request a Certificate of Correction, pursuant to the provisions of 37 CFR 1.323, and submit the $100 Certificate of Correction fee.

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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1100 NEW YORK AVENUE NW, SUITE 600
WASHINGTON DC 20005-3934

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In re Application of	:
Sophie Wilson	:
Application No. 10/288,592	: DECISION GRANTING PETITION
Filed: November 6, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1875.3120001	:

This is a decision on the petition, filed August 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2819 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N .: _____

DATE : 06-01-06

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/288592** Patent No **6975250**

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

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

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

A. Green

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.

C mments: _____

Renford Barnie — **SPE**

2819 — **Art Unit**

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

In re:	DUGGAN et al.	:DECISION ON REQUEST
Petition No.:	10/288,603	:UNDER 37 CFR 5.25
Petition Filing Date:	February 13, 2004	
Attorney Docket Number:	680.0053USQ	

Title: COSMETIC TREATMENT USING A NEW RETINOID

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
Brazil	November 9, 2002
Canada	October 31, 2002
China	November 11, 2002
EPO	November 7, 2002
Japan	November 8, 2002
Poland	November 8, 2002

Yvonne R. Abbott
Patent Examiner
Licensing & Review
(703) 308-2866

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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JUN 22 2005

OFFICE OF PETITIONS

In re Patent No. 6,829,157	:	
Issued: 7 December, 2004	:	
Application No. 10/288,613	:	ON PETITION
Filed: 5 November, 2002	:	
Atty Docket No. 02-763	:	

This is a decision on the petition filed on 31 May, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] See Official Gazette of 22 June, 2004.

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JUN 23 2009

OFFICE OF PETITIONS

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE NC 28280-4000

In re Patent No. 7,527,644	:	
Issued: May 5, 2009	:	
Application No. 10/288,615	:	NOTICE
Filed: November 5, 2002	:	
Atty Docket No. 000100.0012	:	

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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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Richard J. Ogle, et al. :
Application No. 10/288,649 :
Filed: November 4, 2002 :
Attorney Docket No. 17,939C :

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3651 for further processing of the request for continued examination under 37 CFR 1.114 filed September 2, 2004.

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

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

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Paper No. 7

YASUJI KOJIMA
12-1 DENENCHOFU-MINAMI
OTA-KU, 145-0076
JAPAN

AIRMAIL

COPY MAILED

JUL 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Yasuji Kojima :
Application No. 10/288,671 : ON PETITION
Filed: November 7, 2002 :
For: Portable Body-Felt Vibration System :

This is a decision on the petition under 37 CFR 1.137(b), filed July 9, 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)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed December 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, 2002.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

As to item (2), petitioner stated that a petition fee of $665.00 was enclosed with the instant petition. After a review of the documents submitted, it does not appear a Credit Card Payment Form PTO-2038 was included. A copy is enclosed.

The filing of a terminal disclaimer is unnecessary as a condition for revival pursuant to the provisions of 37 CFR 1.137(b) under the current rules. Therefore, the terminal disclaimer filed with the petition will not be processed.

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

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

By hand: Customer 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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

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

Attachment: PTO-2038

UNITED STATES 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

YASUJI KOJIMA
12-1 DENENCHOFU-MINAMI
OTA-KU, 145-0076
JAPAN

AIRMAIL

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OCT 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Yasuji Kojima :
Application No. 10/288,671 :
Filed: November 7, 2002 :
For: PORTABLE BODY-FELT VIBRATION :
SYSTEM :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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STEPHEN C. BEUERLE
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Gerard Montesquieux	:	
Application No. 10/288,688	:	DECISION ON REQUEST
Filed: November 4, 2002	:	TO WITHDRAW
Attorney Docket No. None	:	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 2, 2005.

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

The request is signed by Stephen C. Beuerle on behalf of himself and all the attorneys/agents associated with Customer Number 27189. However, a review of the file record indicates that there is no power of attorney to Stephen C. Beuerle or any attorneys/agents associated with Customer Number 27189. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: GARY L. EASTMAN
EASTMAN & ASSOCIATES
707 BROADWAY STREET, SUITE 1800
SAN DIEGO CA 92101

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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CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Autry Lee Jones	:	
Application No. 10/288,693	:	ON PETITION
Filed: November 4, 2002	:	
Attorney Docket No. KLR:djs 8354.0001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 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 August 24, 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 November 24, 2004.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed November 4, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 3700, Art Unit 3752 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kevin L. Russell
Chernoff, Vilhauer, McClung & Stenzel
1600 Ods Tower
601 SW Second Avenue
Portland, OR 97204-3157

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OFFICE OF PETITIONS

In re Application of	:	
Autry Lee Jones	:	
Application No. 10/288,693	:	DECISION ON PETITION
Filed: November 4, 2002	:	TO WITHDRAW
Attorney Docket No. KLR:djs 8354.001	:	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 April 7, 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 Kevin L. Russell on behalf of all attorneys of record who are associated with the firm Chernoff, Vilhauer, McClung & Stenzel.

All attorneys/agents associated with the firm Chernoff, Vilhauer, McClung & Stenzel have been withdrawn.

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

All future correspondence will be directed to the sole inventor Autry Lee Jones at the address indicated below.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at 571-272-3213.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: Autry Lee Jones
U.S. Penitentiary
P.O. Box 2099
Pollack, Louisiana 711467

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES, NJ 07417-1880

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OFFICE OF PETITIONS

In re Application of	:	
Laurent Barrelle	:	
Application No. 10/288,699	:	ON PETITION
Filed: November 6, 2002	:	
Attorney Docket No. P-5710P1	:	

This is a decision on the petition under 37 CFR 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 reply in a timely manner to the non-final Office action mailed July 27, 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 October 28, 2004.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received.

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 3763 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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Patricia A. Meier
ConocoPhillips Company
IP Legal
P O Box 2443
HOUSTON, TX 77079

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OFFICE OF PETITIONS

In re Application of
Mamdouh M. Salama
Application No. 10/288,709
Filed: November 5, 2002
Attorney Docket No. 1856-21200
(94300.01)

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 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 June 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]

There is no indication that petitioner herein, Shannon M. Bates, was ever given a power of attorney in this application. Nevertheless, in accordance with 37 CFR 1.34, the signature of petitioner appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that this person is authorized to represent the particular party in whose behalf he/she acts. If

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

petitioner 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 petitioner. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This matter is being referred to Technology Center AU 3671 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

cc:

Shannon W. Bates
Conley Rose P.C.
5700 Granite Parkway, Suite 330
Plano, Texas 85024

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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William N. Hulsey, III
HULSEY & CALKINS, LLP
8911 N. Capital of Texas Highway
Suite 3200
Austin, TX 78759

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FEB 19 2005

Technology Center 2100

In re Application of:
Michael Grabert
Application No. 10/288,713
Filed: November 6, 2002
For: APPARATUS FOR IMAGE PROJECTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 27, 2004.

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

The request 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

Cc: Michael Grabert
Keyotee, Inc
110 Wild Basin Road
Suite 240
Austin, TX 78746

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

ANDERSON KILL & OLICK, P.C.
1251 Avenue of the Americas
New York NY 10020

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MAY 03 2005

OFFICE OF PETITIONS

In re Application of :
Jin-Woo Kim : DECISION ON PETITION
Application No. 10/288,733 :
Filed: November 5, 2002 :
Attorney Docket No. DE-1410 :

This is a decision on the petition filed on May 6, 2003, requesting that the above-identified application be accorded a filing date of November 5, 2002, instead of the present filing date of February 25, 2003. The application file was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to applicant.

On November 5, 2002, applicant filed the above-identified application. However, on January 9, 2003, the Office of Initial Patent Examination mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, which set a two-month extendable period of time to reply. The Notice stated that the application had been accorded a filing date of November 5, 2002; however, the application failed to comply with the requirements of 37 CFR 1.821-1.825 and page 6 of the specification appeared to have been omitted.

In response, on February 25, 2003, applicant filed, *inter alia*, a response to the Notice, which included a copy of page 6 of the specification. On April 7, 2003, the Office mailed a Notice of Incomplete Reply, stating that the Office received the reply to the Notice; however, applicant did not include an oath/declaration covering the newly submitted items and a $65.00 surcharge. The period of reply remained as set forth in the Notice of January 9, 2003. Additionally, the Notice of Incomplete indicated the filing

date of the application as February 25, 2003, the date of deposit of page 6 of the specification.

On May 6, 2003, applicant submitted the present petition, a request for a two-month extension of time to reply, a copy of applicant's postcard receipt, and paid the requisite fees. The postcard receipt acknowledged that the USPTO received 39 pages of specification, including an abstract on November 5, 2002.

Upon review of the record, page 6 of the specification deposited on November 5, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 5, 2002, included page 6 of the specification, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 6 of the specification, was complete on filing and will be granted a filing date of November 5, 2002.

The Notice of Incomplete Reply, mailed on April 7, 2003, was sent in error and is hereby vacated. Accordingly, the petition fee and the extension of time fee are unnecessary and will be refunded to Deposit Account No. 01-1944.

Accordingly, the petition is grant.

The application will be accorded a filing date of November 5, 2002, using page 6 of the specification submitted on May 6, 2003, as part of the original disclosure.

The application file will be forwarded to the Office of Initial Patent Examination to correct the filing date to November 5, 2002, using page 6 of the specification submitted on May 6, 2003, as part of the original disclosure, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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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Anderson, Kill & Olick, P.C.
1251 Avenue of the Americas
New York, NY 10020-1182

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OFFICE OF PETITIONS

In re Application of
Yick Wah Ho
Application No. 10/288,735
Filed: November 5, 2002
Attorney Docket No. DE-1409

DECISION ON PETITION

This is decision on the petition filed on July 5, 2006, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On April 13, 2005, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period to pay the issue and publication fees. In the absence of a timely filed reply, the application became abandoned on July 14, 2005. On March 20, 2006, the Office mailed a Notice of Abandonment. On July 5, 2006, petitioner filed the present petition.

In the present petition, the practitioner asserts the he did not receive the Notice of Allowance mailed on April 13, 2005, the Examiner's Amendment Communication mailed on August 18, 2005, or the Examiner's Amendment mailed on August 22, 2005, because these documents and the Notice of Abandonment were incorrectly mailed to the inventor's address in China and not to the designated attorney of record's address as indicated in the original application papers and in the Declaration and Power of Attorney. The practitioner states that on January 22, 2004, he filed a Request to Change Applicant's Address; however, the Office inadvertently changed the correspondence address of record instead of only changing the address of the inventor. Therefore, the practitioner requests that the Office withdraw the holding of abandonment.

Initially, the Office notes that Deposit Account No. 50-3814 contains insufficient fees to charge the $700.00 issue fee, as authorized. As petitioner did not submit the complete payment of the issue fee as required by the Notice of Allowance, the application will remain abandoned.

With regard to the practitioner's assertion of non-receipt, the Office does not ordinary receive a request to change the inventor's address separate from a request to change the correspondence address of record. Pursuant to 37 CFR 1.33, a registered attorney or agent, who filed the application, or any other registered practitioners named in the transmittal letter, may change the correspondence address of record during the prosecution of the application. Therefore, it is not unreasonable for the Office to

determine that the paper was intended as a change of the correspondence address of record. Furthermore, the paper was provided in a manner that appeared to request a change of correspondence address of record, different from the previously provided correspondence address. Petitioner is reminded that a request of change of correspondence address of record does not need to take a particular form. Moreover, the paper did not clearly mention or provide apparent instructions that the paper was solely a request to change the applicant's address and not a change of the correspondence address of record.

While this is an unfortunate situation, the showing of record does not permit the relief requested. Accordingly, the petition to withdraw the holding of abandonment is **dismissed**.

Nevertheless, in light of the circumstances of this case, petitioner may wish to seek relief by filing a petition under 37 CFR 1.137(a) on the basis of unavoidable delay, instead of submitting a request for reconsideration of the decision. The complete payment of the issue fee must accompany any petition to revive the application.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Anderson, Kill & Olick, P.C.
1251 Avenue of the Americas
New York, NY 10020-1182

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OFFICE OF PETITIONS

In re Application of
Yick Wah Ho
Application No. 10/288,735
Filed: November 5, 2002
Attorney Docket No. DE-1409

DECISION ON PETITION

This is decision on the petition under 37 CFR 1.137(a), filed December 8, 2006.

On April 13, 2005, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period to pay the issue and publication fees. In the absence of a timely filed reply, the application became abandoned on July 14, 2005. On March 20, 2006, the Office mailed a Notice of Abandonment. On July 5, 2006, petitioner filed a petition under 37 CFR 1.181, which was dismissed by the decision of October 18, 2006.

The present petition satisfies the requirements of 37 CFR 1.137(a). Accordingly, the petition is **granted.**

The outstanding $700.00 issue fee and the $250.00 petition fee will be charged to Deposit Account No. 50-3814, as authorized.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bradley M. Knepper
Sheridan, Ross, PC
1560 Broadway
Suite 1200
Denver, CO 80202

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APR 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Patti L. McCalmont	:	
Application No. 10/288,737	:	DECISION ON PETITION
Filed: November 5, 2002	:	TO WITHDRAW
Attorney Docket No. 4380-2-CIP	:	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 6, 2007.

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

A review of the file record indicates that the power of attorney to Bradley M. Knepper and all attorneys/agents associated with customer number 22442 has been revoked by the assignee, Intrado Inc. of the patent application on February 15, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

A non-final rejection was mailed on January 25, 2007. Failure to respond within the set or extended time period will result in the abandonment of this application.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Michele Zarinelli
c/o West Corporation
11808 Miracle Hills Drive
MSW11 – Legal
Omaha, NE 68154

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

Siemens Corporation
Intellectual Property Law Dept.
170 Wood Avenue South
Iselin, NJ 08830

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OCT 06 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Werner Eckardt et al. :
Application No. 10/288,756 :
Filed: November 6, 2002 :
Attorney Docket No. 2001P21239US0160,426-500 :

This is a decision on the petition under 37 CFR 1.137(b) filed September 2, 2003, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed February 12, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on May 13, 2003.

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

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

The application file is being forwarded to Technology Center AU 2674 for further processing.

Latrice Bond

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

cc: Carlson Gaskey
400 West Maple Road
Suite 350
Birmingham, MI 48009

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

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

Mail Date: 04/21/2010

Applicant	: Werner Eckardt	: DECISION ON REQUEST FOR
Patent Number	: 7592972	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/288,756	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **995** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON PEABODY
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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OFFICE OF PETITIONS

In re Application of	:	
Walter Lutz et al	:	
Application No. 10/288,772	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. 740116-401	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed August 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 15, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 19-2380 was charged a total of $1,750.00 -- $750.00 for the petition to revive an unintentionally abandoned application, $700.00 for the issue fee, and $300.00 for the publication fee.

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

This matter is being referred to the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DONALD R. PALLADINO
PPG INDUSTRIES, INC.
INTELLECTUAL PROPERTY DEPARTMENT
ONE PPG PLACE
PITTSBURGH PA 15272

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Michael J. Pawlik et al	:	
Application No. 10/288,774	:	NOTICE
Filed: November 6, 2002	:	
Attorney Docket No. 1806A1	:	

The purpose of this communication is to inform you that Application No. 10/288,774, which has received Patent No. 6,815,068 and an issue date of November 9, 2004, is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit processing as an abandoned application. This withdrawal was requested by the Director of Petitions.

Once the application is withdrawn from issue, it will be referred to the Files Repository.

Telephone inquiries should be directed to Karen Creasy at (571) 272-3208.

Charles Pearson, Director
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : October 28, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/288,774**

Applicant(s) :Michael J. Pawlik et al
Application No. :10/288,774
Filed :November 6, 2002

The above-identified application has been assigned Patent No. 6,815,068 and an issue date of November 9, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the Director of Petitions.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 9, 2004:

> "All reference to Patent No. 6,815,068 to Michael J. Pawlik et al of Pennsylvania for CORROSION AND ALKALI-RESISTANT COMPOSITIONS AND METHODS FOR USING THE SAME appearing in the Official Gazette of November 9, 2004 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, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

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

SIERRA PATENT GROUP, LTD.
P O BOX 6149
STATELINE NV 89449

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Kaptanoglu
Application No. 10/288,778
Filed: November 5, 2002
Attorney Docket No. ACT-283 COA
For: BLOCK LEVEL ROUTING ARCHITECTURE IN A FIELD PROGRAMMABLE GATE ARRAY

DECISION GRANTING PETITION

This is a decision on the petition, filed January 21, 2002 (certificate of mailing date January 14, 2003), requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice), mailed December 20, 2002 . The petition will be treated under 37 CFR 1.53(e).

The application was filed on November 5, 2002. On December 20, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that drawing figure 10 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that drawing figure 10 be accorded a filing date of November 5, 2002 on the basis that 14 sheets of formal drawing figures, including drawing figure 10, were received in the Patent and Trademark Office (PTO) on November 5, 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 November 5, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 14 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 14 sheets of drawing figures, including drawing figure 10, were filed on November 5, 2002. MPEP 503. Accordingly, the request is granted.[1]

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 November 5, 2002, using the copy of drawing figure 10 submitted with the instant petition. Office records will be corrected to show that 14 sheets of drawings were present on filing.

---

[1] It is noted that the postcard receipt states that 14 sheets of formal drawings and 10 sheets of drawings from the prior application were filed on November 5, 2002. All 10 sheets of drawings from the prior application are present in the application file. Figure 10 supplied with the instant petition appears to be a duplicate of informal Figure 10 from the prior application (sheet 10 of 10 from the prior application, rather than sheet 14 of 14 formal drawings). Nevertheless, petitioner requests entry of the Figure 10 that was submitted with the instant petition.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/20/2006

TO SPE OF : ART UNIT 2800(2833)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,854,995

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

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

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

Okay to enter changes to claim 6 as requested in C of C request?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

P. Bradley

~~P. AUSTIN BRADLEY~~
SUPERVISORY PATENT EXAMINER
~~TECHNOLOGY CENTER 2800~~
SPE

2833
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070517

DATE : May 17, 2007

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction on Patent No.: 7,143,763

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: Justine R. Yu **Art Unit** 3771

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DT06 Rec'd PCT/PTO 04 NOV 2002 CT #2

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. 25150/35PCT

In Re Application Of: **Halliburton Energy Services, Inc.**

~~10/276989~~ 10/288,794 DS OPCTLA

Serial No.	Filing Date	Examiner	Group Art Unit
PCT/US00/30597	November 6, 2000		

Invention: **Drilling Formation Tester, Method of Making Same, Method of Testing**

OIPE JC95 NOV 04 2002 PATENT & TRADEMARK OFFICE

ASSISTANT COMMISSIONER FOR PATENTS
Attention: Office of Petitions
Box DAC
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a PATENT APPLICATION UNDER PCT CHAPTERS I AND II ~~timely and proper response to a notice or action by the 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 any extension 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. ☒ A proposed reply to the above-identified notice or action:

   ☒ is enclosed. ☐ was filed on _____

   The proposed reply is in the form of: **Continuation**

2. ☐ The issue fee:

   ☐ is enclosed. ☐ was paid on _____

3. ☒ The abandoned application was a:

   ☐ design application. ☒ utility application. ☐ plant application.

4. ☐ A terminal disclaimer (and fee) disclaiming a period equivalent to the period of abandonment is enclosed.

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

P33LARGE/REV04

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10/276989

D[illegible] Rec'd PCT/PTO 04 NOV 2002

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. 25150/35PCT

10/288,794

OPCTLA

In Re Application Of: **Halliburton Energy Services, Inc.**

Serial No.	Filing Date	Examiner	Group Art Unit
PCT/US00/30597	November 6, 2000		

Invention: **Drilling Formation Tester, Method of Making Same, Method of Testing**

OIPE JC03 NOV 04 2002 PATENT & TRADEMARK OFFICE

Calculation and Payment of Fees

Enclosed are the following fees:

6. ☒ Petition fee under 37 CFR 1.17(m) in the amount of: **$1,280.00**
7. ☐ Fee for amendment in the amount of: _____
8. ☐ Fee for extension of time to respond to Office Action in the amount of: _____
9. ☐ Issue fee in the amount of: _____
10. ☐ Continuing application filing fee in the amount of: _____
11. ☐ Terminal disclaimer fee in the amount of: _____
12. ☐ _____

Total fees enclosed: **$1,280.00**

The fee of **$1,280** is to be paid as follows:

☒ A check in the amount of the fee is enclosed.

☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **07-1245**

A duplicate copy of this sheet is enclosed.

11/1[illegible]/2002 GFREY1 00000040 PCT/US00/30597

~~01 FC:1453~~ ~~-1280.00 BP~~

[illegible] dates 07/29/2003 GFREY1

[illegible]/2002 GFREY1 00000040 PCT/US00/30597

[illegible] -1280.00 [illegible]

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DT Rec'd PCT/PTO 04 NOV 2002

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. 25150/35PCT

In Re Application Of: **Halliburton Energy Services, Inc.**

~~10/276989~~ 10/288,794 WJ OPCTLA

Serial No.	Filing Date	Examiner	Group Art Unit
PCT/US00/30597	November 6, 2000		

Invention: **Drilling Formation Tester, Method of Making Same, Method of Testing**

OIPE JC95 NOV 04 2002 PATENT & TRADEMARK OFFICE

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.

Signature

Dated: 11/04/02

J.M. (Mark) Gilbreth
Reg. No. 33,388

Gilbreth & Associates, P.C.
P.O. Box 2428
Bellaire, TX 77402-2428
T (713) 667-1200
F (713) 667-4424

I certify that this document and fee is being deposited on with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

cc: **Express Mail Label No. EV 130 351 140 US**

29 JUL 2003

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

VINSON & ELKINS L.L.P.
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON TX 77002-6760

In re Application of	:	
HOOPER et al.	:	DECISION ON
Application No.: 10/288,794	:	PETITION UNDER
Attorney Docket No.: 25150/35PCT	:	37 CFR 1.137(b)
For: DRILLING FORMATION TESTER,	:	
APPARATUS AND METHODS OF TESTING AND	:	
MONITORING STATUS OF TESTER	:	

This decision is in response to the "PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed 04 November 2002.

BACKGROUND

On 06 November 2000, applicants filed international application PCT/US00/30597, which claimed a priority date of 05 November 1999 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 May 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 June 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 July 2002.

On 04 November 2002, applicants filed, *inter alia*, a specification, claims, abstract, drawings, and the instant "PETITION FOR REVIVAL OF AN APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to (1), the filing of the present continuing application under 35 U.S.C. 111(a) on 04 November 2002 is accepted as an appropriate response under 37 CFR 1.137(b).

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As to (2), the petition fee was paid on 04 November 2002.

As to (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) to revive international application PCT/US00/30597 is hereby **GRANTED** as to the National stage in the United States of America for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/288,794.

This application is accepted as an application filed under 35 U.S.C. 111(a) with a filing date of **04 November 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 PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 4

PAUL J. FARRELL
DILWORTH & BARRESE LLP
333 EARLE OVINGTON BOULEVARD
UNIONDALE, NY 11553

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MAY 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Hwan-Joon Kwon et al :
Application No. 10/288,806 : NOTICE
Filed: November 6, 2002 :
Attorney Docket No. 678-1010 (P10565) :

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

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

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

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

This file is being forwarded to the Initial Patent Examination Unit to correct filing receipt.

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
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MAR 3 1 2004

Technology Center 2100

Paper No. 4

Thomas A. Turano
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

In re Application of:
Bloomfield et al.
Application No. 10/288,821
Filed: November 06, 2002
For: INTERACTING WITH SOFTWARED APPLICATIONS DISPLAYED IN A WEB PAGE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 04, 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 March 04, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: John D. Lanza, Esq.
LAHIVE & COCKFIELD, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
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OFFICE OF PETITIONS

In re Patent No. 6,927,349	:
Issued: August 9, 2005	: DECISION ON REQUEST FOR
Application No. 10/288,839	: RECONSIDERATION OF
Filed: November 6, 2002	: PATENT TERM ADJUSTMENT
Attorney Docket No. **379.015**	:

This is a decision on the "PETITION FOR ADJUSTMENT OF PATENT TERM DUE TO EXAMINATION DELAY" filed August 22, 2005.

The request is **DISMISSED.**

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On August 9, 2005, the application matured into U.S. Patent No. 6,927,349, with a revised patent term adjustment of 0 days. On August 22, 2005, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the patent should have been adjusted by 474 days due to examination delay.

On September 24, 2003, 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 was zero days. On June 21, 2005, the above-identified application matured into U.S. Patent No. 6,927,349.The instant application for PTA, filed August 22, 2005, was timely filed within two months of the patent grant.

The Office initially determined a patent term adjustment of zero (0) days including three days of applicant delay. However, after the issuance of the patent, additional delays were recorded that caused the Patent Term to adjust. Pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) , 467 days have been added based on an adjustment for PTO delay and pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b) and (c)(10), 383 days have been deducted for applicants' delay.

Applicants argue that the issue fee was timely paid on December 22, 2003. While applicants begin the calculation on the certificate of mail date, December 22, 2003, applicants are reminded that the response was actually received on December 29, 2003 and that they are not entitled to the calculation based on the certificate of mail date. In this regard, applicants' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*; *Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, applicants' argument on application for patent term adjustment is not found persuasive. Thus, there were 467 days from the payment of the issue fee (December 29, 2003) to the issuance of the patent (August 9, 2005), not 474 days as is indicated by applicants.

In view thereof, the Patent Term Adjustment indicated on the patent of eighty-one (81) days (467 days of Office delay minus 386 days of applicant delay) is correct.

Furthermore, this petition is subject to the fee set forth in 37 CFR 1.18(e). Therefore,$200 has been charged to deposit 50-1170, in accordance with the authorization found in the petition.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosures: Copy of PTA Calculation
Draft Certificate of Correction

Day : Thursday
Date: 9/21/2006

PALM INTRANET

Time: 08:49:29

PTA Calculations for Application: 10/288839			
Application Filing Date:	11/06/2002	PTO Delay (PTO):	467
Issue Date of Patent:	08/09/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	386
Post-Issue Petitions:	0	Total PTA (days):	81
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
40	08/09/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	467		31
39	07/12/2005	WORKFLOW - QUERY REQUEST - FINISH			
38	06/27/2005	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
37	04/15/2005	WORKFLOW - QUERY REQUEST - BEGIN			
36	03/29/2005	RECEIPT INTO PUBS			
35	03/28/2005	DISPATCH TO FDC			
34	03/28/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
33	12/28/2004	WORKFLOW - DRAWINGS FINISHED		73	28
32	03/28/2005	RESPONSE TO AMENDMENT UNDER RULE 312			
31	12/29/2003	ISSUE FEE PAYMENT VERIFIED		5	13
30	03/11/2005	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		109	38
29	03/17/2005	RECEIPT INTO PUBS			
28	03/08/2005	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
27	03/03/2005	RESPONSE TO AMENDMENT UNDER RULE 312			
25	10/14/2003	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		76	28
24	02/28/2005	RECEIPT INTO PUBS			
23	02/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	12/29/2003	NEW OR ADDITIONAL DRAWING FILED		120	28
21	01/17/2005	RECEIPT INTO PUBS			
20	10/14/2003	WORKFLOW - 312 AMENDMENT - FINISH			
19	11/08/2004	RECEIPT INTO PUBS			

18	10/14/2003	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	28
17	10/14/2003	WORKFLOW - 312 AMENDMENT - BEGIN			
16	12/29/2003	ISSUE FEE PAYMENT RECEIVED			
15	12/23/2003	RECEIPT INTO PUBS			
14	11/26/2003	WORKFLOW - FILE SENT TO CONTRACTOR			
13	09/24/2003	MAIL NOTICE OF ALLOWANCE			
12	09/22/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
11	09/22/2003	NOTICE OF ALLOWABILITY			
10	09/08/2003	DATE FORWARDED TO EXAMINER			
9	08/25/2003	RESPONSE AFTER NON-FINAL ACTION		3	8
8	05/22/2003	MAIL NON-FINAL REJECTION			
7	05/19/2003	NON-FINAL REJECTION			
6	12/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	12/12/2002	APPLICATION DISPATCHED FROM OIPE			
4	12/11/2002	APPLICATION IS NOW COMPLETE			
2	11/14/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/06/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,927,439 B2

DATED : August 9, 2005

INVENTOR(S) : Moriya 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 (0) days

Delete the phrase "by 0 days" and insert – by 81 days--

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OFFICE OF PETITIONS

In re Patent No. 6,927,349
Issued: August 9, 2005
Application No. 10/288,839
Filed: November 6, 2002
Attorney Docket No. **379.015**

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "RESPONSE TO DISMISSAL OF PETITION FOR ADJUSTMENT OF PATENT TERM DUE TO EXAMINATION DELAY" filed on December 7, 2006 (certificate of mail date December 4, 2006), requesting under 37 CFR §1.705(d) that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 81 days to 266 days.

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

Patentees are given TWO (2) MONTHS from the mailing date of this decision to file a request for reconsideration. This period is not extendable under 37 CFR 1.136.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred fifty-four (154) days.

On August 9, 2005, the above-identified application matured into U.S. Patent No. 6,927,349. The Patent issued with a revised Patent Term Adjustment of 81 days. By decision mailed October 2, 2006, the initial request for reconsideration of patent term adjustment timely filed August 22, 2005 was dismissed.

The Office initially determined a patent term adjustment of zero (0) days including three days of applicant delay. However, after the issuance of the patent, additional delays were recorded that revised the Patent Term Adjustment. Pursuant to 37 C.F.R. § 1.702(a)(4) , a period of adjustment of 467 days was entered for Office delay in issuing the patent after payment of the issue fee and satisfaction of all outstanding requirements and pursuant to 37 C.F.R. § 1.704(c)(10), periods of reduction totaling

383 days were entered for applicant filing papers after the mailing of the notice of allowance.

Patentee disputes the reduction of 73 days due to "Workflow-Drawings finished" as there were no drawings filed on December 28, 2004.

A review of the PALM calculations for this application reveals that the initial determination of PTA of 0 days was reduced by 120 days for applicant's submission of drawings on December 29, 2003 and an additional 73 days for submission of drawings on December 28, 2004. A review of the application record supports a conclusion that no drawings were filed on December 28, 2004 and that the only proper reduction was 120 days for the Drawings filed December 29, 2003. The entry of 73 days is erroneous.

Additionally, Patentee disputes the reduction of 109 days due to the submission of an Amendment After Allowance on March 11, 2005. Patentee argues that while the amendment after allowance was filed October 14, 2003 the patent term was properly reduced by 76 days, they are being penalized twice for the same 312 Amendment. The record shows that an amendment was filed October 14, 2003 but was rejected and a second amendment was therefore filed on March 11, 2005. Unless Patentee can show that the amendment filed on March 11, 2005 is the same amendment filed on October 14, 2003, (or otherwise that the reduction is not warranted) the reduction of 109 days for applicant delay is appropriate.

In view thereof, the patent term adjustment indicated in the patent should have been one hundred fifty-four **(154)** days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED FIFTY-FOUR (154) days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Patricia Faison-Ball, at (571) 272-3212.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

DRAFT

PATENT : 6,927,349 B1

DATED : August 9, 2005

INVENTOR(S) : Michael O. Flegel

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 (81) days

Delete the phrase "by 81 days" and insert – by 154 days--

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DEC 19 2005

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604

In re Application of	:	**DECISION ON PETITION**
Joseph J. Davis, Jr.	:	**TO WITHDRAW THE**
Application No. 10/288,849	:	**HOLDING OF ABANDONMENT**
Filed: November 06, 2002	:	
For: DAMPNER	:	

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on June 06, 2005. There is no fee for this petition.

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

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____.

☒ Certificate of Mailing/Transmission signed on December 02, 2004, and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

☐ Originally sent response, timely received _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then forwarded to the examiner for prompt action on the amendment filed December 02, 2004.

RAR/rjc: 08/16/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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BRIAN M. DINGMAN
MIRICK O'CONNELL DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

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APR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Charles H. Marsland	:	
Application No. 10/288,854	:	ON PETITION
Filed: November 6, 2002	:	
Attorney Docket No. 16794-00005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 7, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 8, 2005.

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

This matter is being referred to Technology Center AU 1761 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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2629 B TERMINAL BOULEVARD
MOUNTAIN VIEW VA 94043

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OFFICE OF PETITIONS

In re Application of :
Csaba Truckai and John H. Shadduck :
Application No. 10/228,857 :
Filed: August 27, 2002 :
Attorney Docket No. SCI-016 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 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 March 8, 2004, which set a one-month period for response. Accordingly, this application became abandoned on April 9, 2004. A Notice of Abandonment was mailed on August 11, 2004.

Please note, the power of attorney, submitted February 22, 2005, will not be entered as it is signed by only one inventor. Signatures of all the inventors are required.

As such, petitioner herein is not empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The file is being forwarded to 3700, for review of the response, filed February 22, 2005, *in due course*.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 26, 2006

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 6,624,075

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

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

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

_____

_____

_____

_____

_____

Michael Lebentritt — 2812
SPE — **Art Unit**

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WASHINGTON, D.C. 20231
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Paper No. 4

John G. Posa
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, PC
280 N. Old Woodward Ave., Suite 400
Birmingham MI 48009

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of	:	
McKay	:	
Application No. 10/288,874	:	DECISION GRANTING
Filed: November 6, 2002	:	PETITION
Attorney Docket No. MBD-12704/22	:	

This is a decision on the petition filed January 21, 2003, to establish that Figures 22, 23, 28, 29, and 30 were part of the originally filed application.

The petition is **dismissed**.

The petition would normally be granted, but the papers which accompany the petition do not include a copy of Figures 22 and 23. The petition cannot be granted until a copy of Figures 22 and 23 are supplied.

On January 2, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 6, 2002, and advising applicants that Figures 22, 23, 28, 29, and 30 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that the missing figures were deposited on November 6, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 16 sheets of drawings on November 6, 2002.[1] A manual count of the drawing sheets in the file indicates the file contains 13 sheets of drawings. Therefore, the evidence indicates the Office misplaced three sheets of drawings.

Petitioner has submitted a sheet of drawing containing Figure 28 and another sheet of drawing containing Figures 29 and 30. However, the record fails to indicate the receipt of a copy of the sheet containing Figures 22 and 23. The Office requests that petitioner supply a copy of Figures 22 and 23.

A refund of the $130 petition fee will be scheduled.

The Notice mailed January 2, 2003, was sent in error and is hereby vacated.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

OIPE JC102
MAR 17 2003
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GIFFORD, KRASS, GROH, SPRINKLE, ANDERSON & CITKOWSKI, P.C.

Paper No. 4

John G. Posa
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, PC
280 N. Old Woodward Ave., Suite 400
Birmingham MI 48009

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MAR 04 2003
OFFICE OF PETITIONS

In re Application of	
McKay	
Application No. 10/288,874	DECISION GRANTING
Filed: November 6, 2002	PETITION
Attorney Docket No. MBD-12704/22	

This is a decision on the petition filed January 21, 2003, to establish that Figures 22, 23, 28, 29, and 30 were part of the originally filed application.

The petition is **dismissed**.

The petition would normally be granted, but the papers which accompany the petition do not include a copy of Figures 22 and 23. The petition cannot be granted until a copy of Figures 22 and 23 are supplied.

On January 2, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 6, 2002, and advising applicants that Figures 22, 23, 28, 29, and 30 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that the missing figures were deposited on November 6, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 16 sheets of drawings on November 6, 2002.[1] A manual count of the drawing sheets in the file indicates the file contains 13 sheets of drawings. Therefore, the evidence indicates the Office misplaced three sheets of drawings.

Petitioner has submitted a sheet of drawing containing Figure 28 and another sheet of drawing containing Figures 29 and 30. However, the record fails to indicate the receipt of a copy of the sheet containing Figures 22 and 23. The Office requests that petitioner supply a copy of Figures 22 and 23.

A refund of the $130 petition fee will be scheduled.

The Notice mailed January 2, 2003, was sent in error and is hereby vacated.

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, PC
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009

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OCT 04 2004

OFFICE OF PETITIONS

In re Application of	:	
McKay	:	
Application No. 10/288,874	:	ON PETITION
Filed: November 6, 2002	:	
Attorney Docket No. MBD-12704/22	:	

This is a decision in response to a paper filed August 1, 2003, which is being treated as a renewed petition to establish that Figures 22, 23, 28, 29, and 30 were part of the originally filed application and as a petition for a filing date of November 6, 2002, rather than March 17, 2003.

The petition is **granted**.

On November 6, 2002, the application was filed.

On January 2, 2003, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of November 6, 2002, and advising applicants that Figures 22, 23, 28, 29, and 30 described in the specification appeared to have been omitted.

A petition was filed on January 21, 2003.

The petition was dismissed.

The decision stated that the petition would have been granted but a copy of Figures 22 and 23 had not been supplied.

Unfortunately, due to a typographical mistake, the header of the decision stated, "Decision Granting Petition" even though the decision dismissed the petition.

On March 17, 2003, petitioner sent a copy of Figures 22 and 23 along with a cover sheet entitled, "Response to Decision Granting Petition." Perhaps because of the word "Granting" the file was incorrectly sent to the Office of Initial Patent Examination.

The Office of Initial Patent Examination failed to read the decision and recognize the need to send the file to the Office of Petitions. OIPE failed to notify petitioner that the Figures could not be entered which would have alerted petitioner that a problem existed. Instead, OIPE entered the drawings and change the filing date to the date of receipt even though petitioner failed to request such relief and even though a petition under 37 CFR 1.182 had not been filed nor granted.

On August 1, 2003, petitioner filed a request for a corrected filing receipt with OIPE. Apparently it has been ignored. The undersigned learned of the problem as a result of a telephone call from a representative of petitioner on either September 28, 2004, or September 29, 2004.

The Office regrets the delay in addressing petitioner's correspondence.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **November 6, 2002**, using the application papers filed on November 6, 2002, the copy of Figures 28, 29, and 30 filed on January 21, 2003, and the copy of Figures 22 and 23 filed on March 17, 2003.

If any further problems or concerns exist, petitioner should not hesitate to call Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

William W. Habelt
Carrier Corporation
Carrier Parkway
PO Box 4800
Syracuse, NY 13221

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OFFICE OF PETITIONS

In re Application of	:	
Jerry L. Weikel et al.	:	
Application No. 10/288,885	:	ON PETITION
Filed: November 6, 2002	:	
Attorney Docket No. 10599	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Non-Provisional Application (Notice) mailed December 13, 2002, which set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 14, 2003.

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

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

Latrice Bond

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 4

HUGHES & LUCE LLP
1717 MAIN STREET
SUITE 2800
DALLAS TX 75201

MAIL

APR 2 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Michael Grabert :
Application No. 10/288,914 :
Filed: November 6, 2002 :
For: APPARATUS FOR IMAGE PROJECTION :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 11, 2003.

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

The request is **GRANTED.**

All attorneys/agents of record, and all attorneys associated with Customer No. 22,444 are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: William N. Hulsey II
2000 Canonero Drive
Austin, TX 78746

UNITED STATES 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

VISTA PRINT USA, INC.
ATTN: PATENT COUNSEL
95 HAYDEN AVENUE
LEXINGTON MA 02421

In re Application of

Walker, et al.

Application No. 10/288,924

Filed: November 6, 2002

Attorney Docket No. 02-009

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), September 14, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $162.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 18, 2009. 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 August 19, 2009. A Notice of Abandonment was mailed on September 10, 2009.

The issue fee and publication fee were received on September 14, 2009.

Form PTOL-85B, filed September 14, 2009, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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MERCHANT & GOULD
SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 05/13/2010

Applicant	: Jeffrey R. Sprague	: DECISION ON REQUEST FOR
Patent Number	: 7617502	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/288,942	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1705** 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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KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS, IN 46204-2079

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OFFICE OF PETITIONS

In re Application of	:	
Cheryl Kunz-Mujica	:	
Application No. 10/288,955	:	ON PETITION
Filed: November 6, 2002	:	
Attorney Docket No. PPAS-1/402	:	

This is a decision on the petition filed March 9, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed September 20, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 21, 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 Issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

CHARLES E. YOCUM
THE BLACK & DECKER CORPORATION - TW199
701 EAST JOPPA ROAD
TOWSON, MD 21286

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APR 23 2004
OFFICE OF PETITIONS

In re Application of :
Rickey J. Thomas :
Application No. 10/288,961 : ON PETITION
Filed: November 6, 2002 :
Attorney Docket No. P-US-TN-1623A :

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment, mailed September 18, 2003, which set a one (1) month period to reply. Accordingly, this application became abandoned on October 19, 2003. A Notice of Abandonment was mailed on March 22, 2004.

The file is being forwarded to Technology Center 3700, for review of the amendment filed April 8, 2004.

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

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

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BRADLEY N. RUBEN
SUITE 5A
463 FIRST STREET
HOBOKEN NJ 07030

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OFFICE OF PETITIONS

In re Application of :
Paul D. Lantz : DECISION ON PETITION
Application No. 10/288,979 :
Filed: 6 November, 2002 :
Atty Docket No. 121AR-001 :

This is a decision on the petition, filed on 3 June, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that the nonpublication request was rescinded on 23 October, 2003. Petitioner states in the letter filed on 6 July, 2005, requesting withdrawal of the petition, that the counterpart international application was filed on 21 October, 2003.

As the nonpublication request was rescinded within forty-five (45) days of the filing of the filing of the international or foreign application, the requirement of 35 U.S.C. § 122(b)(2)(B)(iii) has been met, and no petition is necessary.

As such, the petition is dismissed as moot. In according with the communication entitled "Letter Withdrawing Petition to Revive Application Unintentionally Abandoned Under 37 CFR 1.137(b)" filed by facsimile on 25 June, 2003, the petition fee of $750.00 will be credited to Deposit Account No. 50-2144.

The application is being referred to Technology Center Art Unit 3676 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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Joseph R. Snyder
Townsend and Townsend and
Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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APR 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Eric C. Peters et al.	:	
Application No. 10/289,009	:	DECISION ON PETITION
Filed: November 5, 2002	:	TO WITHDRAW
Attorney Docket No. 021288-000230US	:	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 22, 2007.

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

A review of the file record indicates that the power of attorney to Joseph R. Snyder and all attorneys/agents associated with customer number 20350 has been revoked by the assignee, IRM, LLC of the patent application on March 19, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

A non-final rejection was mailed on February 7, 2007. Failure to respond within the set or extended time period will result in the abandonment of this application.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Emily Tongco Wu, Ph.D
Genomics Institute of the
Novartis Research Foundation
10675 John Jay Hopkins Drive
Suite E225
San Diego, CA 92121-1127

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/289,009	11/05/2002	Eric C. Peters	021288-000230US

CONFIRMATION NO. 9043

OC000000023324242

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 04/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/19/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Kimberly Drabinski

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

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Paper No: __

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OFFICE OF PETITIONS

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

In re Application of	:	
Zhang, et al.	:	DECISION
Application No.: 10/289,048	:	
Filing Date: 6 November, 2002	:	
Attorney Docket No. 67,108-004	:	

This is a decision on the petition filed on 17 July, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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.[1]

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 6 November, 2006, with reply due absent an extension of time on or before 6 February, 2007;
- the application went abandoned by operation of law after midnight 6 February, 2007;
- the Office mailed a Notice of Abandonment on 9 July, 2007;
- on 17 July, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he filed a reply timely and properly, but avers further that he incorrectly placed on the papers in question Application No. 10/298,048, rather than the proper and correct application number (Application No.: 10/289,048).

Petitioner has provided no copies of the papers averred to have been submitted and the date-stamped receipt card (in order that they be matched as to one another) or any other materials as set forth in the guidance of the Commentary at MPEP §711.03(c), as discussed below. These must be provided with any renewed petition or petition for revival under 37 C.F.R. §1.137.

Notably, the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

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 as to 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 must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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[3] 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.

(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]

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).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt,[9] 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.[10]))

---

[4] 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.

[5] 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.

[6] 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).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] 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.

[9] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[10] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[11]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512.

---

[11] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied the showing requirement herein.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens herein, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[12]

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[13]

By mail: Commissioner for Patents[14]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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[15]) and

---

[12] See fee schedule: http://www.uspto.gov/main/howtofees.htm

[13] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

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

[15] 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 17 2008

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

In re Application of	:	
Zhang, et al.	:	DECISION
Application No.: 10/289,048	:	
Filing Date: 6 November, 2002	:	
Attorney Docket No. 67,108-004	:	

This is a decision on the petition filed on 25 October, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was routed to the Technology Center, rather than the Office of Petitions, and presented to the attorneys in the Office of Petitions only at this writing.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 6 November, 2006, with reply due absent an extension of time on or before 6 February, 2007;
- the application went abandoned by operation of law after midnight 6 February, 2007;
- the Office mailed a Notice of Abandonment on 9 July, 2007;
- on 17 July, 2007, Petitioner filed the original petition with, *inter alia*, an averment that he filed a reply timely and properly, but avers further that he incorrectly placed on the papers in question Application No. 10/298,048, rather than the proper and correct application number (Application No.: 10/289,048), however, Petitioner has provided no copies of the papers averred to have been submitted and the date-stamped receipt card (in order that they be matched as to one another) or any other materials as set forth in the guidance of

the Commentary at MPEP §711.03(c)–and so the petition was dismissed on 24 September, 2007;

- the instant petition seeks to remedy these deficiencies with what is averred by Petitioner to be a true copy of the papers filed on 6 February, 2007, and of the Auto-Reply Facsimile Transmission indicating thereon receipt of 7 pages–which Petitioner avers included the one-page cover page/Amendment first page, four pages of claims, and two pages of argument/remarks.

Notably, the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running as to 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 must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

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

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] 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.[8]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9] (See: the commentary at MPEP §711.03(c)(I)(A) and (B).

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing requirement herein.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens herein, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 9 July, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2617 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this

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[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[8] 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.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

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[10]) 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

[10] 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

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United States Patent and Trademark Office
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Paper No. 12

LORD CORPORATION
PATENT & LEGAL SERVICES
111 LORD DRIVE
CARY, NC 27512

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of
K. Andrew Kintz et al
Application No. 10/289,071
Filed: November 6, 2002
Attorney Docket No. IR-3308A(ET)

ON PETITION

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 12, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 13, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

As to item (2), applicant must pay a petition fee of $1,500.00 in order for the petition to be granted.

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

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

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

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

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

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 16

LORD CORPORATION
PATENT & LEGAL SERVICES
111 LORD DRIVE
CARY, NC 27512

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OFFICE OF PETITIONS

In re Application of :
K. Andrew Kintz et al :
Application No. 10/289,071 : ON PETITION
Filed: November 6, 2002 :
Attorney Docket No. IR-3308A(ET) :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

The petition is GRANTED.

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

This application file is being forwarded to Technology Center AU 1755.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SLATER & MATSIL
17950 PRESTON RD., SUITE 1000
DALLAS TX 75252-5793

In re Application of :
Hartmud Terletzki et al :
Application No. 10/289,075 : ON PETITION
Filed: November 6, 2002 :
Attorney Docket No. 02 P 03167 US :

This is a decision on the petition, filed November 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2824 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Paver et al.	:	DECISION ON PETITION TO
Application No. 10/289,081	:	WITHDRAW HOLDING OF
Filed: 5 November, 2002	:	ABANDONMENT
Atty Docket No. 42P15093	:	

This is a decision on the petition filed on 24 May, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely respond to the Notice of Drawing Inconsistency with Specification mailed on 30 November, 2005. Notice of Abandonment was mailed on 10 April, 2006.

Petitioners assert that an amendment was timely filed. In support, petitioner has supplied a copy of an amendment, the first page of which contains a Certificate of Facsimile Transmission dated 23 December, 2005.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the ***original*** response on the date indicated on the Certificate of Transmission (*see* 37 CFR 1.8 and MPEP 512).

The petition lacks item (2) above. Petitioners should supply a statement by Lisa Hopkinson, the individual who signed the Certificate of Transmission.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[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: (571) 273-8300
Attn: Office of Petitions

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.181(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Paver et al.	:	DECISION ON PETITION TO
Application No. 10/289,081	:	WITHDRAW HOLDING OF
Filed: 5 November, 2002	:	ABANDONMENT
Atty Docket No. 42P15093	:	

This is a decision on the renewed petition, filed on 28 August, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Drawing Inconsistency with Specification mailed on 30 November, 2005. Notice of Abandonment was mailed on 10 April, 2006. The petition filed on 24 May, 2006, was dismissed on 27 June, 2006.

Petitioners again assert that an amendment to address the drawing inconsistency was timely filed. In support, petitioners have supplied a copy of an amendment, the first page of which contains a Certificate of Facsimile Transmission dated 23 December, 2005.

Petitioners have also supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing seven (7) pages, including the first page of the reply, were received at the USPTO on 23 December, 2005. Lastly, petitioners have provided, with the present renewed petition, a statement by Lisa M. Hopkinson, counsel's paralegal, and the individual who signed the Certificate of Transmission, stating that she personally transmitted the response to the USPTO on 23 December, 2005.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting on personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission (*see* 37 CFR 1.8 and MPEP 512).

As petitioners have provided convincing evidence that a reply to the Notice to File Missing Parts was transmitted to the USPTO on 23 December, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact.

Upon further review, the papers filed on 23 December, 2005, have been located in the Office. It appears that the papers were timely filed, but were matched with an incorrect application file due to Office error. The Office apologizes for any inconvenience to petitioners.

The application is being referred to the Technology Center for review of the amendment filed on 23 December, 2005.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SCHWEGMAN, LUNDBERG &
WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JAN 07 2008

OFFICE OF PETITIONS

In re Patent No. 7,245,945	:	DECISION ON REQUEST
Paver et al.	:	FOR RECONSIDERATION OF
Issue Date: July 17, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/289,081	:	and
Filed: November 5, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 884.I40US1	:	CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR POST ISSUE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed September 19, 2007. Patentees apply for an adjustment of the patent term due to examination delay as shown in the Original Letters Patent mailed July 17, 2007 from five hundred twenty-seven (527) days to five hundred eighty-three (583) days.

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

For the reasons set forth 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 **SEVEN HUNDRED TWENTY-TWO (722)** days.

On July 17, 2007, the above-identified application matured into U.S. Patent No. 7,245,945. The instant request for reconsideration filed September 19, 2007 (certificate of mailing dated September 17, 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 527 days. Patentees dispute a reduction of 56 days associated with the filing of "new or additional drawings" on September 28, 2005. Patentees state that a reduction of 64 days was properly entered for the

drawings filed September 28, 2005 and the further reduction of 56 days is incorrect.

Patentees are correct. Pursuant to 37 CFR 1.704(c)(10), a period of reduction of 64 days was entered for the drawings, counting the number of days in the period beginning on September 28, 2005, the date of filing of the drawings, and ending on November 30, 2005, the date of mailing of a Notice in response to the drawing filing. The period of reduction of 56 days has been removed.

Moreover, a review of the record reveals 2 further incorrect entries. A period of 120 days was entered pursuant to 37 CFR 1.704(c)(10) for an amendment filed December 23, 2005. However, a review of the application reveals that this amendment was lost by the Office and not made of record in this application until October 24, 2006. There was no error in applicants' filing warranting the misplacement of the amendment. More importantly, a period of reduction of 120 days was entered pursuant to 37 CFR 1.704(c)(10) for the resubmission of this amendment on May 24, 2006. In this instance, two reductions of 120 days for the same paper are not warranted. A period of reduction of 120 days has been removed.

Moreover, a period of reduction of 19 days was entered pursuant to 37 CFR 1.704(c)(10) for the filing of an amendment on May 24, 2007. However, the record only supports a conclusion that an amendment was filed on May 24, 2006, not 2007. The period of reduction of 19 days has been removed.

It is further noted that there was applicant delay within the meaning of 1.704(c)(7). Specifically, the petition filed May 24, 2006 contained an omission, which was corrected with the filing of a renewed petition on August 28, 2006. This is a period of delay of 96 days. However, as this period totally overlaps with the 120 day period of reduction entered pursuant to 37 CFR 1.704(c)(10) for the amendment filed May 24, 2006, no further period of reduction will be entered.

In view thereof, the patent term adjustment indicated on the patent should be seven hundred twenty-two (722) days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **SEVEN HUNDRED TWENTY-TWO (722)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 09-04

Paper No. 13

MENDELSOHN AND ASSOCIATES PC
1515 MARKET STREET
SUITE 715
PHILADELPHIA PA 19102

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OFFICE OF PETITIONS

In re Application of :
Narayanaswamy and Rosenthal : DECISION REFUSING STATUS
Application No. 10/289,082 : UNDER 37 CFR 1.47(a)
Filed: 6 November, 2002 :
Atty Docket No. Narayanaswamy 1-11 :

This is in response to the petition filed under 37 CFR 1.47 on 6 November, 2002, which is treated as a petition under 37 CFR 1.47(a).

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

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 reissue application was filed on 6 November, 2002, with a declaration naming Shankar Narayanaswamy and Eugene J. Rosenthal as joint inventors and signed by joint inventor Rosenthal on behalf of himself and joint inventor Narayanaswamy.

The present petition was also filed with the application papers, whereby petitioners assert that a letter was sent to Narayanaswamy's last known address, but was returned as undeliverable. Petitioners further assert that Narayanswamy's phone number is not longer in service.

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 (5).

In regards to item (1), petitioners have not shown that diligent efforts were made to locate the non-signing inventor.[1] Specifically, petitioners state that a copy of the envelope sent to the non-signing joint inventor and returned as undeliverable is enclosed with the petition. Unfortunately, no copy of the envelope showing that it was returned as undeliverable has been located among the papers received with the present petition. As such, petitioners should supply a duplicate copy of the envelope showing that the letter was returned as undeliverable by the post office.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

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[1] MPEP 409.03(d).

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

Additionally, petitioners should provide declarations or statements of fact by persons have first-hand knowledge of the efforts made to locate the non-signing inventor, stating the facts as they know them.

In regards to item (5), if a more recent last known address is discovered for the last known address, that address must be provided with any renewed petition.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petitions
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

D. Wood

Douglas I. Wood
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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DIW 11-04

Paper No. 15

MENDELSOHN AND ASSOCIATES PC
1515 MARKET STREET
SUITE 715
PHILADELPHIA PA 19102

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OFFICE OF PETITIONS

In re Application of	:
Narayanaswamy and Rosenthal	: DECISION ACCORDING STATUS
Application No. 10/289,082	: UNDER 37 CFR 1.47(a)
Filed: 6 November, 2002	:
Atty Docket No. Narayanaswamy 1-11	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed on 18 October, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown, via the statement of registered patent attorney Steve Mendelsohn, that a letter sent to the last known address of the non-signing inventor was returned as undeliverable. Additionally, petitioner has provided a copy of the envelope showing that the letter was returned as undeliverable by the U.S. Postal Service. Lastly, petition has provided a statement of consent by the assignee to the reissue application. Accordingly, despite diligent efforts, the non-signing inventor could not be located.

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

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

The application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 11-04

Shankar Narayanaswamy
988 Alpine Terrace #4
Sunnyvale CA 94086

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OFFICE OF PETITIONS

In re Application of
Narayanaswamy et al.
Application No. 10/289,082
Filed: 6 November, 2002
For: Multi-Display Electronic Devices Having Open and Closed Configurations

Dear Mr. Narayanaswamy:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MENDELSOHN AND ASSOCIATES PC
1515 MARKET STREET
SUITE 715
PHILADELPHIA PA 19102

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LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

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OFFICE OF PETITIONS

In re Application of Ming-Te Tu :
Application No. 10/289,084 : Decision on Petition
Filing Date: November 7, 2002 :
Attorney Docket No. FP9069 :

This is a decision on the petition filed June 25, 2004, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application. This is also a decision in response o the petition under 37 CFR 1.137(b), filed March 22, 2006, to revive the above-identified application.

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed December 6, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on February 7, 2003. A Notice of Abandonment was mailed on May 28, 2004.

The petition under 37 CFR 1.181

Petitioner alleges the Notice to File Corrected Application Papers was never received.

MPEP 711.03(c)(I)(A) states,

> The showing [of non-receipt] may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Petitioner has filed a large number of petitions to withdraw the holding of abandonment in the past few months. Therefore, circumstances exist "that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail."

The petition under 37 CFR 1.137(b)

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to prepare the application for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

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JUL 21 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ALAN S. HODES
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

In re Application of :
Merrill et al. :
Application No. 10/289,091 :
Filed: November 5, 2002 :
For: STORAGE AND USE OF DATA ASSOCIATED WITH AN IMAGE SENSING DEVICE :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on June 23, 2003.

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

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

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

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: NICKI KUZN (FOVEON, INC)
2820 SAN TOMAS EXPRESSWAY
SANTA CLARA, CA 95051

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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CST

In re application of James C. Stevens et al Serial No. 10/289,122 Filed: November 5, 2002 For: IMPACT RESISTANT POLYMER BLENDS OF CRYSTALLINE POLYPROPYLENE AND PARTIALLY CRYSTALLINE, LOW MOLECULAR WEIGHT IMPACT MODIFIERS	: : : : : : : : :	NOTICE OF WITHDRAWAL FROM ISSUE 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to a potential interference. See 37 CFR 1.313(b)(4).

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 Christine Tierney at (571) 272-1055.

The above-identified application will be forwarded to the Board of Patent Appeals and Interferences in due course.

Jacqueline M. Stone
Director, Technology Center 1700
High Polymer Chemistry, Plastics,
Stock Materials and Compositions

WHYTE HIRSCHBOECK DUDEK S.C.
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE WI 53202

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
990 Marsh Road
Menlo Park CA 94025

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OFFICE OF PETITIONS

In re Application of :
Veteska, et al. :
Application No. 10/289,123 : DECISION ON PETITION
Filed: November 5, 2002 :
Attorney Docket No. CLAR 1047-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 25, 2008 for failure to timely pay the issue fee, as required by the Notice of Allowance and Fee(s) Due, mailed September 24, 2008. Notice of Abandonment was mailed January 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Patent Publication for further processing.

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET, 13TH FLOOR
STAMFORD CT 06901

In re Application of	:	
STEINBERG, Amiram	:	
Application No. 10/289,126	:	DECISION ON PETITION
Filed: November 05, 2002	:	TO WITHDRAW
Attorney Docket No. **ACIM 101 (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 August 28, 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 Marvin Wachs on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **AMIRAM STEINBERG**
P.O. BOX 176
AVIHAIL, IL 42910

cc: **ANDREW LOWES, ESQ.**
HAYNES AND BOONE LLP
2505 N. PLANO ROAD
SUITE 4000
RICHARDSON, TX 75082-4101

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Technology Center 2100

Paper No. 8

IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170-0640

In re Application of: CRAIG R. POWERS, ET AL. Application No.: 10/289,131 Filed: November 05, 2002 For: **ARCHITECTURE FOR GENERAL PURPOSE NEAR REAL-TIME BUSINESS INTELLIGENCE SYSTEM AND METHODS THEREFOR**	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed October 27, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition filed October 27, 2003 meets all of the requirements above; accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for promptly examining this application out of turn according to the procedures set forth in M.P.E.P. §708.02.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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Townsend and Townsend and Crew
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Michael V. Chobotov	:	
Application No. 10/289,136	:	DECISION ON PETITION
Filed: November 5, 2002	:	TO WITHDRAW
Attorney Docket No. 021630-00130US	:	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 1, 2005.

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

A review of the file record indicates that the power of attorney to Nicholas V. Sherblna has been revoked by the assignee of the patent application on January 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: Hoffmann & Bacon
Daniel A. Scola Jr., Esq.
1055 Parsippany Blvd.
Parsippany, NJ 07054

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Clifford Rowan Murch	:	
Application No. 10/289,137	:	DECISION ON PETITION
Filed: November 5, 2002	:	TO WITHDRAW
Attorney Docket No. 021630-001310US	:	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 8, 2005.

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

A review of the file record indicates that the power of attorney to Mark D. Barrish and all the attorneys/agents of record who is associated with customer No. 20350 have been revoked by the assignee of the patent application on January 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 3738.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: HOFFMANN & BARON
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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555 EAST WELLS STREET, SUITE 1900
MILWAUKEE, WISCONSIN 53202-3819

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OFFICE OF PETITIONS

In re Application of
James C. Stevens et al
Application No. 10/289,138
Filed: November 5, 2002
Attorney Docket No. DOW-31792(1)

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter 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 Amendment.

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

---

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

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on October 26, 2007.

TOWNSEND and TOWNSEND and CREW LLP

By: /Maureen Golob/
Maureen Golob

PATENT
Attorney Docket No.: 021756-044910US
Client Reference No.: OID-2005-320-02-CIP

OK to Enter
JDC 11/7/08

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

KENNETH C. GARDNER et al.

Patent No.: US 7,243,124

Issued: July 10, 2007

For: ARCHITECTURE FOR GENERAL PURPOSE NEAR REAL-TIME BUSINESS INTELLIGENCE SYSTEM WITH CLIENT DEVICES AND METHODS

Customer No. 51206

Examiner: Nguyen, Minh Chau

Art Unit: 2145

Confirmation No.: 9148

Application No.: 10/289,139

Filed: November 5, 2002

REQUEST FOR CERTIFICATE OF CORRECTION

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

Sir:

Pursuant to 37 CFR §1.322 Applicants submit a Request for Certificate of Correction for the above-identified patent. The desired corrections are set forth on the enclosed form PTO/SB/44.

Applicants believe no fee is required for this Certificate. However, if a fee is due, please charge such fee to Deposit Account No. 20-1430.

Respectfully submitted,

/Sujit B. Kotwal/

Sujit B. Kotwal
Reg. No. 43,336

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel (415) 576-0200 / Fax (415) 576-0300
SBK/mg / 61162297 v1

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,243,124

APPLICATION NO.: 10/289,139

ISSUE DATE : July 10, 2007

INVENTOR(S) : Kenneth Gardner, Tim J. Beauchamp, Tana Christine Netsch, Geoffrey Deane Owen Nicholls, Craig R. Powers

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

On page 1, line 60, before "Provisional Application No. 60/401,989, filed on Sep. 16, 2002,"
please insert -- Continuation-in-Part of Application No. 10/237,559, filed on Sep. 6, 2002, and --

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Sujit B. Kotwal
Reg. No. 43,336
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 11/15/07

TO SPE OF : ART UNIT 2145

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/289139 Patent No: 7243124 B1

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: Ok to Enter

Jason Cardone — **SPE**

2445 — **Art Unit**

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OFFICE OF PETITIONS

ON PETITION

In re Application of
James C. Stevens et al
Application No. 10/289,145
Filed: November 5, 2002
Attorney Docket No. DOW-31790(1)

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 June 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1711 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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OFFICE OF PETITIONS

ON PETITION

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET, SUITE 200
PORTLAND OR 97204

In re Application of
Christopher G. McKay
Application No. 10/289,154
Filed: November 5, 2002
Attorney Docket Number: MCW 301C

This is a decision on the petition under 37 CFR 1.137(b),[1] filed February 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 20, 2003, for failure to timely reply to the Notice to File Missing Parts mailed on December 19, 2002, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed February 3, 2004.

Receipt of the basic filing fee, substitute oath or declaration and surcharge for its late filing is acknowledged.

Additionally, 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 $740.00 extension of time fee submitted with the petition on February 17, 2004, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account, No. 11-1540.

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

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES 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. 6950374
Issue Date: September 27,2005
Application No. 10289154
Filed: November 5,2002
Attorney Docket No. 70130-5004

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

This is a decision on the electronic petition, filed December 17,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 17,2009 . 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)
6950374	2005-09-27	10289154	2002-11-05	70130-5004

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Robert Hollander/	Date (YYYY-MM-DD)	2009-12-15
Name	Robert Hollander, Manager		
Enter Reel and Frame Number		Remove	
Reel Number	014595	Frame Number	0843
Enter Reel and Frame Number		Remove	
Reel Number	021439	Frame Number	0284
Click ADD for additional Reel Number and Frame Number		Add	

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Tana Christine Netsch	: DECISION ON REQUEST FOR
Patent Number	: 7668917	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/289,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1013** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Tim J. Beauchamp et al :
Application No. 10/289,162 : ON PETITION
Filed: November 5, 2002 :
Attorney Docket No. 021756-044991US

This is a decision on the petition, filed March 13, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 29, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2155 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

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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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OFFICE OF PETITIONS

Docket Clerk
P.O. Drawer 800889
Dallas TX 75380

In re Application of	:
Ash	: LETTER REGARDING PATENT
Application No. 10/289,164	: TERM ADJUSTMENT
Filed: November 6, 2002	:
Atty. Dkt. No: RFMI01-00223	:

This is a decision on the "GOOD FAITH AND CANDOR LETTER REGARDING PATENT TERM ADJUSTMENT" filed November 22, 2006. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed August 25, 2006, indicated that the PTA to date is 475 days. Applicant suggests that this adjustment is excessive.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 470 days.

A review of calculation of adjustment reveals that at the time of allowance, an adjustment of 484 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 37 CFR 1.704(b).

The adjustment of 484 days is properly reduced a total of 14 days, as indicated by applicant.

The adjustment is reduced four days in accordance with 37 CFR 1.704(b) in connection with the reply filed August 8, 2005 in response to the non-final Office action mailed May 4, 2005.

The adjustment is further reduced five days in accordance with 37 CFR 1.704(b) in connection with the reply filed February 6, 2006 in response to the second non-final Office action mailed November 1, 2005.

The adjustment is further reduced five days in accordance with 37 CFR 1.704(b) in connection with the reply filed July 24, 2006

in response to the third non-final Office action mailed April 19, 2006.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 470 days.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application is being forwarded to Office of Patent Publications for issuance of a patent.

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

Kery A Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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JUN 14 2004

CST

In re application of Li-Min Tau et al Serial No. 10/289,168 Filed: November 5, 2002 For: FILMS COMPRISING ISOTACTIC PROPYLENE COPOLYMERS	:	NOTICE OF WITHDRAWAL FROM ISSUE 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to a potential interference. See 37 CFR 1.313(b)(4).

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 Christine Tierney at (571) 272-1055.

The above-identified application will be forwarded to the Board of Patent Appeals and Interferences in due course.

Jacqueline M. Stone
Director, Technology Center 1700
High Polymer Chemistry, Plastics,
Stock Materials and Compositions

WHYTE HIRSCHBOECK DUDEK S.C.
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE WI 53202

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

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OFFICE OF PETITIONS

In re Application of	:	
Wen Tse Huang	:	
Application No. 10/289,173	:	DECISION ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. FP8986	:	

This is in response to the petition under 37 CFR 1.181, filed July 28, 2004, to withdraw the holding of abandonment. This is also in response to the petition under 37 CFR 1.137(b), filed November 14, 2005, to revive the application.

On December 10, 2002, the Office mailed a Notice to File Corrected Application Papers (Notice), which set a two-month extendable period for response. In the absence of a timely filed reply, the application became abandoned on February 11, 2003. On May 28, 2004, the Office mailed a Notice of Abandonment.

Petition Under 37 CFR 1.181

In the present petition, petitioner asserted nonreceipt of the Notice of December 10, 2002. Specifically, the practitioner stated that a search of the file jacket and the docket records in his office indicated that the Notice was not received. Therefore, petitioner requested that the Office withdraw the holding of abandonment. A copy of the docket record was included with the petition.

The record reveals that petitioner filed the present application on November 7, 2002, which contained an executed Declaration and a Transmittal Letter, indicating the correspondence address as Huang Wen Tse, PO Box 82-144, Taipei, Taiwan. The Office made that correspondence address of record.

On December 10, 2002, the Office mailed a Notice to File Corrected Application Papers to Huang Wen Tse, PO Box 82-144, Taipei, Taiwan, which was the address of record on the mailing date. On April 20, 2005, petitioner submitted a Power of Attorney and Correspondence Address Indication Form appointing Leong C. Lei and changing the correspondence address to PMB # 1008 1867 Ygnacio Valley Road, Walnut Creek CA 94598.

In the present case, the record reveals that petitioner filed the power of attorney and change of correspondence address after the Office mailed the Notice to File Corrected Application Papers. Accordingly, the Office mailed the Notice to the correct correspondence address of record, as it existed on December 10, 2002. Although petitioner submitted the docket records of Leong C. Lei, this does not satisfy the required showing of nonreceipt of the Notice because the USPTO did not mail the Notice to the practitioner. For these reasons, the petition to withdraw the holding of abandonment is **dismissed**.

Petition Under 37 CFR 1.137(b)

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 replacement drawings and made the proper statement of unintentional delay.

Accordingly, the petition under 37 CFR 1.137(b) is **granted.**

This matter is being referred to the Office of Initial Patent Examination for further processing.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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C. IRVIN McCLELLAND
OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Man Sung Co et al	:	
Application No. 10/289,181	:	DECISION GRANTING PETITION
Filed: November 7, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 230349USODIV	:	

This is a decision on the petition, filed July 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 13, 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 1644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070530

DATE : May 30, 2007

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 7,138,116

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: Christina Chan **Art Unit** 1644

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

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

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OFFICE OF PETITIONS

In re Application of
Peters, Eicher, Hollmann, Reinecke & Dunne
Application No. 10/289,183
Filed: November 7, 2002
Attorney Docket No. 229430US6
For: ATOMIZER FOR MANUAL ACTUATION

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.

The petition is granted.

Petitioners have shown that the non-signing inventor, Holger Hollmann, has refused to join in the filing of the above-identified application after having refused to review the application papers. Specifically, the declaration of Dr. Joachim Eicher and Dr. Hans Busch, employees of the former employer of Mr. Hollmann, establishes that the inventor twice refused to accept, let alone sign, any documents relating to the above-identified invention. Mr. Hollmann further requested that his name be removed from any applications filed by his former employer. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HOLGER HOLLMANN
LIBORIUS-STRASSE 43
DE-45881 GELSENKIRCHEN
GERMANY

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OFFICE OF PETITIONS

In re Application of
Peters, Eicher, Hollmann, Reinecke & Dunne
Application No. 10/289,183
Filed: November 7, 2002
Attorney Docket No. 229430US6
For: ATOMIZER FOR MANUAL ACTUATION

LETTER

Dear Mr. Hollmann:

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/08/07

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/289213** Patent No.: **7135340**

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. 73

Thank You For Your Assistance

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

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

Comments: _____

SPE _____ Art Unit 1641

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter Ostergaard NIELSEN, et al	:	
Application No. 10/289,227	:	DECISION ON PETITION
Filed: November 7, 2002	:	TO WITHDRAW
Attorney Docket No. 37400-000119/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 March 19, 2007 and March 20, 2007.

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 above-listed address until otherwise notified by applicant.

There are no pending Office actions at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

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

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ARLINGTON, VA 22203-1808

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OFFICE OF PETITIONS

In re Application of :
Barton F. Haynes et al :
Application No. 10/289,228 :
Filed: November 7, 2002 :
Attorney Docket No. 1579-759

ON PETITION

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 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1648 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 19 2004

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

McAfee & Taft
Tenth Floor, Two Leadship Square
211 North Robinson
Oklahoma City, OK 73102

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OFFICE OF THE DIRECTOR
TC 3600

In re application of
Darrell Casey, et al.
Application No. 10/289,238 : DECISION ON REQUEST
Filed: November 6, 2002 : FOR WITHDRAWAL OF
For: MOTORIZED FIELD CART : ATTORNEY

This is a decision on the renewed request filed on July 23, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **APPROVED**.

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

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

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

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

The request to withdraw as attorney is accepted in the above-identified application because the request meets conditions (A) through (C).

SUMMARY: Request for Withdrawal of Attorney is **APPROVED.**

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

RAR/dcg: 11/3/04

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OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/289,261 : ON PETITION
Filed: November 7, 2002 :
Attorney Docket No. 740756-2546 :

This is a decision on the petition, filed March 24, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114.

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

---

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

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

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OFFICE OF PETITIONS

In re Application of	:	
David B. Silcott et al	:	
Application No. 10/289,266	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. S3I-101	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 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 Notice of Drawing Inconsistency with Specification (Notice) mailed December 15, 2004. The Notice set a period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on January 16, 2004.

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.

The power of attorney, filed June 7, 2004, has not been accepted. The power of attorney is from an assignee and the Certificate required by 37 CFR 3.73(b), that must accompany any and all such filings, has not been received.

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

This matter is being referred to Publishing Division.

Wan Laymon

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

Attachment: Notice Regarding Power of Attorney

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KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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OFFICE OF PETITIONS

In re Application of :
Silcott, et al. :
Application No. 10/289,266 :
Filed: November 7, 2002 :
Attorney Docket No. S3I-101 :

ON PETITION

This is in response to "Petition Under 37 CFR 1.182," filed April 7, 2005, requesting the petition fee of $1,500.00 that accompanied the petition under 37 CFR 1.137(b), filed February 22, 2005, be refunded.

The above-identified application became abandoned for failure to reply in a timely manner to the "Notice of Drawing Inconsistency with Specification" mailed December 15, 2004. The Notice set a period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on January 16, 2004. A petition under 37 CFR 1.137(b) was filed on February 22, 2005, requesting the revival of the unintentionally abandoned application. The petition to revive under 37 CFR 1.137(b) was granted on March 11, 2005. Petitioner now requests the refund of the $1,500.00 petition fee, submitted February 22, 2005.

Petitioner states:

> "[T]he abandonment of the referenced patent application was the fault of the U.S. Patent Office due to its delay in issuing the NOTICE REGARDING POWER OF ATTORNEY notifying Applicants' new agents that the power of attorney was not accepted. If the NOTICE REGARDING POWER OF ATTORNEY had been promptly issued, the Applicants' new agents would have had ample time to correct the missing requirement and the Change of Correspondence Address would have been entered by the U.S. Patent Office before the issuance of the Notice in December 2004. The Notice would have then been mailed to Applicants' new agents, and a response would have been mailed before the deadline ensuring that the referenced application would not be abandoned. Applicants, therefore, request that the Petition fee of $1,500 that accompanied the Petition under 37 CFR 1.137(b) filed February 22, 2005 be refunded to agents' Deposit Account No. 11-0855."

Petitioner now appears to contest the holding of abandonment. However, petitioner had the opportunity to contest the holding of abandonment previously, by the filing of a petition under 37 CFR 1.181, to withdraw the holding of abandonment. Such a petition does not require the submission of a fee. However, petitioner voluntarily chose to file a petition under 37 CFR 1.137(b), requesting the revival of the unintentionally abandoned application. It is noted that the petition under 37 CFR 1.137(b), filed February 22, 2005, is signed by David M. Krasnow, a registered practitioner, who thereby acknowledged the statement required under 37 CFR 1.137(b)(3) 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. Furthermore, the $1,500.00 petition fee was required under 37 CFR 1.137(b)(2). Therefore, the petition to revive, filed February 22, 2005, was properly reviewed, decided and granted according to the requirements of 37 CFR 1.137(b). As such, a refund of the $1,500.00 petition fee is not appropriate.

Accordingly, the petition is dismissed.

The application will be returned to Publishing Division.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

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

Pet. Dec.

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td

Mailed: JUL 1 1 2005

In re application of	:	
Takuya Negami et al.	:	DECISION ON
Serial No. 10/289,290	:	PETITION
Filed: November 7, 2002	:	
For: METHOD AND APPARATUS FOR MAKING METALLIC IRON		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO ENTER AND FULLY CONSIDER THE AMENDMENTS filed January 12, 2005.

On July 20, 2004, an office action was mailed to Applicants. Applicants responded to the office action by filing an amendment on January 12, 2005. The examiner refused entry of the amendment and prepared an advisory action stating that the amendment raised new issues requiring further search and/or consideration.

On February 10, 2005 the instant petition under 37 CFR 1.181 was timely filed to formally request that the January 12, 2005 amendment be entered.

DECISION

Petitioner argues that the office action mailed July 20, 2004 was not a final office action. It is urged that because the office action was never made final, the office action was non-final and therefore any amendment filed in response to this office action should be entered. These arguments are persuasive. Nowhere in the office action of July 20, 2004 does the examiner state that the office action is made final. Additionally, the box stating that the action is made final is not checked on the office action summary form. Because the office action was not made final by the examiner, it should be considered to be a non-final action and the amendment filed on January 12, 2005 should have been treated as an amendment after a non-final office action.

Accordingly, the instant petition is **GRANTED.** The application is being forwarded to the examiner to enter the amendment filed on January 12, 2005 and treat said amendment as an amendment after non-final office action. A new office action will be prepared and sent to Applicants.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 06/11/2008

DATE : July 23 2008

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction for Appl. No 10/289311 patent no7363347

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

Requested correction (to fix a typographical error) is approved as it does not change the scope or meaning of the claim. /Y.M./

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

/William C. Vaughn, Jr./ — **SPE**

2444 — **Art Unit**

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OFFICE OF PETITIONS

In re Application of	:	
Hongyong Zhang	:	
Application No. 10/289,313	:	ON PETITION
Filed: 3 November, 2002	:	
Attorney Docket No. 740756-2552	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 3 May, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 31 January, 2004, for failure to timely respond to the final Office action mailed on 30 October, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37

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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)).

CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

The Notice of Appeal filed 3 May, 2004, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

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 $950.00 extension of time fee submitted with the petition on 3 May, 2004, was subsequent to the maximum period obtainable for reply, this fee is unnecessary. The petition to revive fee and Notice of Appeal fee will be charged to counsel's deposit account. As such, the balance due of $1,660.00 will be charged to counsel's deposit account, No. 19-2380.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

07/19/2004 HLE555 00000003 192380 10289313

01 FC:1453 1330.00 DA
02 FC:1401 330.00 DA

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TC 3600

RUDOLPH G. LARSON
P.O. BOX 5654
AURORA, IL 60507

In re application of Rudolph G. Larson Application No. 10/289,350 Filed: November 6, 2002 For: RESILIENT SUPPORT STRUCTURE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on February 20, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a birth certificate for Rudolph G. Larson indicating that he is at least 65 years of age.

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

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

It is noted that applicant paid $130.00 for consideration of the petition to make special. Petitions to make special due to age or health do not require a fee. 37 CFR 1.02(c). Therefore, if applicant wishes a refund of the $130, a letter requesting the refund should be submitted.

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

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

RAR/dcg: 8/30/04

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JUN 25 2008

OFFICE OF PETITIONS

In re Application of :
Kazutaka Inukai :
Application No. 10/289,355 : ON PETITION
Filed: November 7, 2002 :
Attorney Docket No. 740756-2550 :

This is a decision on the petition filed March 5, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed July 31, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 1, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
INUKAI, Kazutaka :
Application No. 10/289,355 :
Filed: November 7, 2002 :
Attorney Docket No. **740756-2550** :

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 29, 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 March 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
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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UNITED STATES DEPARTMENT OF COMMERCE
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WASHINGTON, DC 20004-2128

Mail Date: 06/11/2010

Applicant	: Kazutaka Inukai	: DECISION ON REQUEST FOR
Patent Number	: 7629611	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/289,355	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1215** 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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NEW YOK, NY 10112

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OFFICE OF PETITIONS

In re Application of	:
Tetsuo Kosaka et al	:
Application No. 10/289,366	: DECISION GRANTING PETITION
Filed: November 7, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00862.022482.1	:

This is a decision on the petition, filed November 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 September 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2655 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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MAY 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael B. COOPER, et al	:	
Application No. 10/289,383	:	DECISION ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. 40369-181325	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 19, 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 July 20, 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 $1540; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 3627 for appropriate action by the Examiner in the normal course of business on the reply received February 19, 2008.

April Wise
Petitions Examiner
Office of Petitions

cc: HIMANSHU S. AMIN
AMIN, TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 E. 9TH STREET
CLEVELAND, OH 44114

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of
Shigeki Kanamaru
Application No. 10/289,417
Filed: November 7, 2002
Attorney Docket No. Q72784

ON PETITION

This is a decision on the petition filed June 4, 2004 to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED** as involving moot issues.

Petitioner believes that the Notice of Allowability was mailed January 8, 2004 and that the application is abandoned for failure to file a timely response thereto. Petitioner argues however that he did not receive the Notice, and further argues to have the holding of abandonment withdrawn based on his non-receipt. Petitioner has searched the file jacket for the instant application and has provided copies of docket records for the purpose of establishing non-receipt.

A review of the file reveals that in fact a Notice of Allowability was drafted but was not mailed and therefore in the absence of the mailing of an office action for which a response would have been due, the application is not abandoned. A review of the file does however reveal that a supplemental declaration for reissue application is of record with a receipt date of January 19, 2006.

In view of the above, this petition was not required and as such, no petition fees are due and none have been charged.

This matter is being referred to Technology Center 3747 for appropriate action on the supplemental oath or declaration under 37 CFR 1.175(b)(1), submitted January 19, 2006.

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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MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Keiichi Nakao et al	:	
Application No. 10/289,436	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. 43890-585	:	

This is a decision on the petition, filed August 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1751 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. 090804

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTH STREET, SUITE 1800
ARLINGTON, VA 22209

SEP 15 2004

In re Application of:	:	
SARAH E. KIM	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/289,437	:	
Filed: November 07, 2002	:	
Attorney Docket No.: **042390.P12063** (formerly 219.40225X00)	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 21, 2003.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Blakely, Sokoloff, Taylor & Zafman was filed on August 18, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: EDWARD H. TAYLOR
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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KEVIN R. SPIVAK
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :

KLATT, Uwe et al. :
Application No. 10/289,447 :
Filed: November 07, 2002 :
Attorney Docket No. **449122046600** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed March 08, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **UWE KLATT**
ALT TEGEL 7
BERLIN, GERMANY 13507

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Patent No. 6,928,147 :
Issued: August 9, 2005 : LETTER REGARDING PTA AND
Application No. 10/289,465 : CERTIFICATE OF CORRECTION
Filed: November 6, 2002 :
Atty. Dkt. No.: 2002-0883A :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed August 5, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The correct Patent Term Adjustment ("PTA") at the time of the issuance of the patent is 99 days as indicated thereon.

The instant application matured into U.S. Pat. No. 6,928,147 on August 9, 2005 and issued with a PTA of 99 days. Patentees indicate that there may be an error in the adjustment in that it may extent the term of the patent by too many days. Patentees have not specified the nature of the possible error.

Accordingly, a general review of the application history has been performed and the adjustment has been recalculated. No error has been found in the calculation.

An adjustment of 160 days can be attributed to the Office[1]. The adjustment of 160 days was reduced 61 days in accordance with 37 CFR 1.704(b) for applicants' failure to engage in reasonable efforts to conclude prosecution[2].

---

[1] An adjustment of **150 days** can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. A further adjustment of **10 days** in accordance with 37 CFR 1.702(a)(2) can be attributed to the Office failure to respond to a applicants' response submitted November 4, 2004 not later than four months after the date on which the reply was filed.

[2] The reduction began September 5, 2004, the day after the date that is three months after the mail date of the non-final Office action (mailed June 4, 2004), and ended November 4, 2004, the date a reply to the non-final Office action was mailed.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 99 days as indicated in the patent. However, should patentees still contend that an error in the adjustment exists, patentees are invited to submit a letter within 30 days of the mail date of the instant letter setting forth with specificity the exact nature of the suspected error.

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

Kery Fries

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

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Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: Cristian Lars Almstrand	: DECISION ON REQUEST FOR
Patent Number	: 7653928	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/289,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1441** 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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APR 13 2005

Paper No. 7

Robert M. Downey
Robert M. Downey, P.A.
Suite 300
601 South Federal Hwy
Boca Raton, FL 33432

In re Application of Gwen Vanessa Thomas Serial No. : 10/289,491 Filed : November 6, 2002 For : Undergarment With Pocket	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed August 25, 2004, to review the holding of abandonment mailed July 23, 2004, for failure to respond to the Office action mailed December 12, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of an amendment and a copy of a return postcard that was stamped by the Office on March 15, 2004, as evidence of the timely filing of a response.

In view of the above, the Notice of Abandonment mailed July 23, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response received March 15, 2004.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/04/08/05

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BEYER WEAVER & THOMAS LLP
PO BOX 70250
OAKLAND CA 94612-0250

In re Application of	:	
Morioka et al.	:	DECISION ON PETITION
Application No. 10/289,494	:	UNDER 37 CFR 1.78(a)(3)
Filed: 5 November, 2002	:	and 37 CFR 1.55(c)
Attorney Docket No. NMCI P034	:	

This is a decision on the petition filed on 6 March, 2006, under 37 CFR 1.78(a)(3), which is treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed international Application No. PCT/JP02/03493, filed on 8 April, 2002, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to prior-filed foreign Application No. 2001-110576, filed on 9 April, 2001.

The petition is **DISMISSED.**

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 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 365(c)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 petition does not satisfy item (1) above.

The petition must be dismissed because the issue fee was paid in the present nonprovisional application on 6 February, 2006, prior to the submission of the present petition and amendment.

37 CFR 1.312 states that any amendments must be submitted prior to or with payment of the issue fee.

Petitioners may wish to consider withdrawing the present application from issue under 37 CFR 1.313(c)(2).

Additionally, the amendment embodied in 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). 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.

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

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and a proper amendment or an Application Data Sheet (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required. Additionally, and as noted above, a petition to withdraw this application from issue in compliance with § 1.313(c)(2) must be submitted if it is desired to have the benefit claim considered prior to issuance of this application into a patent.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The petition fails to comply with item (2) above. The petition under 37 CFR 1.55(c) to foreign Application No. 2001-110576 (filed 9 April, 2001) cannot be granted until the petition to accept the delayed claim for priority to prior-filed international Application No. PCT/JP02/03493 (filed 8 April, 2002) since the foreign application was filed more than one year from the filing date of the present nonprovisional application.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

A review of the file record discloses that a "Priority Acknowledgement" was mailed on 14 March, 2006, by the Office of Patent Publication, which acknowledges the claim for priority based on papers filed in parent Application Number PCT/JP02/03493. However, the acknowledgement of the claim for priority is improper since the Examiner, in the Notice of Allowability mailed on 14 November, 2005, acknowledged receipt of priority papers to foreign Application No. 2001-110576, filed on 13 December, 2004. Accordingly, the "Priority Acknowledgement" mailed on 14 March, 2006, is vacated.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

FAX RECEIVED
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OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Izuru Morioka, et al.

Serial No.: 10/289,494

Filed: November 5, 2002

For: DEVICE FOR CLEANING TIP AND SIDE SURFACES OF A PROBE

Group Art Unit: 1744

Examiner: S. L. Balsis

Attorney Docket: NMCI P034

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, Attention: Karen Creasy at facsimile number (571) 273-0025 on June 29, 2006.

Deborah Neill

Signature

RENEWED PETITION UNDER 37 CFR 1.55(c)

Mail Stop PETITIONS
Commissioner for Patents
Alexandria, Virginia 22313

Sir:

In response to the Decision on Petition Under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) dated June 9, 2006 in the above-referenced application, applicant is submitting a Request for Continued Examination (RCE) pursuant to 37 C.F.R. 1,114 simultaneously herewith together with PRELIMINARY AMENDMENT as the "submission" related to said RCE. This RENEWED PETITION is being submitted, pursuant to the instruction in the third paragraph from the end of page 3 of said Decision, together with application data sheets according to 37 CFR 1.76 in order to claim priority to the foreign application (Japanese Patent Application 2001-110576 filed April 9, 2001) noted in the petition.

Please inform the undersigned attorney of any procedural shortcomings.

Respectfully submitted,

Keiichi Nishimura
Registration No. 29,093

June 29, 2006
BEYER WEAVER & THOMAS, LLP
500 12th Street, Suite 200
Oakland, California 94607
Telephone: (510) 663-1100
Telefax: (510) 663-0920

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BEYER WEAVER & THOMAS LLP
P O BOX 70250
OAKLAND, CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:
Izuru Morioka et al	:
Application No. 10/289,494	: DECISION GRANTING PETITION
Filed: November 5, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NMCIP034	:

This is a decision on the petition, filed June 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 6, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will retained in the Office of Petitions for appropriate action on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\july9\289494.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

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

BEYER WEAVER & THOMAS LLP
PO BOX 70250
OAKLAND CA 94612-0250

COPY MAILED

JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Morioka et al.	:	DECISION ON PETITION
Application No. 10/289,494	:	UNDER 37 CFR 1.78(a)(3)
Filed: 5 November, 2002	:	and 37 CFR 1.55(c)
Attorney Docket No. NMCI P034	:	

This is a decision in reference to the papers filed on 7 August, 2006, which are treated as a renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed international Application No. PCT/JP02/03493, filed on 8 April, 2002, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to prior-filed foreign Application No. 2001-110576, filed on 9 April, 2001.

The petition is again **DISMISSED.**

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 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 365(c)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 petition does not satisfy item (1) above.

The petition is dismissed because the reference required by 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s) has not been filed. In this regard, it is noted

that petitioners submitted an Application Data Sheet (ADS) on 7 August, 2006, identifying the prior-filed international application. The ADS, however, does not state the relationship between the instant application and the prior-filed application. Specifically, the block marked "Continuity Type" under Domestic Priority Information on the ADS has been left blank. As such, a new ADS properly specifying the relationship between the prior-filed application and the instant application must be filed.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and a proper amendment or an Application Data Sheet (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The petition must be dismissed pending submission of a grantable petition under 37 CFR 1.78(a)(3) because the instant nonprovisional application was not filed within 12 months of the filing date of the foreign application, as required by item (5) above, and petitioners may not rely on the filing date of the prior-filed international application in the absence of a grantable petition under 37 CFR 1.78(a)(3). However, said dismissal is without prejudice to reconsideration pending submission of a grantable petition under 37 CFR 1.78(a)(3).

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OAKLAND CA 94612-0250

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APR 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Morioka et al.	:	
Application No. 10/289,494	:	DECISION ON PETITIONS
Filed: 5 November, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NMCI P034	:	AND 37 CFR 1.55(c)

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed on 2 April, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to a prior-filed PCT application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed amendment and Application Data Sheet (ADS), respectively.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 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.

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred to Technology Center Art Unit 1744 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/289,494	11/05/2002	1744	670	NMCIP034	5	1

CONFIRMATION NO. 9444

CORRECTED FILING RECEIPT

OC000000023472180

22434
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Date Mailed: 04/20/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Izuru Morioka, Tokyo, JAPAN;
Satoru Sato, Tokyo, JAPAN;

Assignment For Published Patent Application

Nihon Microcoating Co., Ltd.

Power of Attorney: The patent practitioners associated with Customer Number **22434**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP02/03493 04/08/2002

Foreign Applications

JAPAN 2001-110576 04/09/2001

If Required, Foreign Filing License Granted: 12/09/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/289,494

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

DEVICE FOR CLEANING TIP AND SIDE SURFACES OF A PROBE

Preliminary Class

015

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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April 29, 2009

Bing Ai
Fish & Richardson P.C.
P. O. Box 1022
Minneapolis, MN 55440-1022

Patent No.: 7,053,929 B2
Application No.: 10/289,501
Inventor(s): Orly Yadid-Pecht, *et al.*
Issued: May 30, 2006
Title: **CENTER OF MASS DETECTION VIA AN ACTIVE PIXEL SENSOR**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 756-1591

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 29 2009
OFFICE OF PETITIONS

In re Patent No. 7,053,929	:	
Issue Date: May 30, 2006	:	
Application No. 10/289,501	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. 06618-173003	:	

This is a decision on the petition filed August 6, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition under 37 CFR 3.81(b) has been assessed to petitioner's deposit account.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Bing Ai 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.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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OCT 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,146,982	:	
Issue Date: December 12, 2006	:	
Application No. 10/289,501	:	ON PETITION
Filed: September 16, 2004	:	
Attorney Docket No. GER-0620	:	

This is a decision on the petition filed October 2, 2009, 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.

Petitioner states that the correct assignee's name is "Laboratoires NARVAL SA" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Laboratoires NARVAL SA" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition under 37 CFR 3.81(b) and $100 for the Certificate of Correction has been assessed to petitioner's deposit account.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

JAN 17 2003

#3

NYDEGGER & ASSOCIATES
348 OLIVE STREET
SAN DIEGO, CA 92103

In re Application of Hooman A. Asbaghi Serial No.: 10/289,508 Filed: November 5, 2002 For:Safety Device For Blood Collection:	DECISION ON PETITION

This is in response to applicants' petition filed November 5, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS.

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JUN 11 2010

OFFICE OF PETITIONS

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

In re Patent No. 6,980,230 :
Issue Date: December 27, 2005 :
Application No. 10/289,509 : DECISION ON PETITION
Filed: November 5, 2002 :
Attorney Docket No. 06618-173002 :

This is a decision on the Transmittal Of Request For Certificate Of Correction, filed April 22, 2009, requesting correction, on the Title Page of the subject patent, to correct the assignee's name and residence. The Request is being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner is advised that it is the practice of the U. S. Patent and Trademark Office (USPTO) to issue a certificate of correction to correct an error on the part of an application in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect. Note 37 CFR 1.323 and MPEP 1482 (35 U.S.C. 255), which states:

> "Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such correct form."

Petitioner states that the correct assignee's name and residence is "California Institute Of Technology, Pasadena, CA (US)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a) and the $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) were submitted with the Petition. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office may have to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) that was submitted.

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.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 6,980,230.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: Fish & Richardson, P.C.
12390 El Camino Real
San Diego, CA 92130

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Paper No. 9

DELIO & PETERSON
121 WHITNEY AVENUE
NEW HAVEN CT 06510

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
John A. Kolb
Application No. 10/289,513
Filed: November 6, 2002
Attorney Docket No. TPR100015000
Title: HEAT EXCHANGER PACKAGE

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

This is a decision on the petition filed on September 2, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign application on May 27, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

On May 30, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompanied by a notice of the foreign filing.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of a foreign application that requires publication of applications 18 months after filing.

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

Petitioner has submitted the notification of a foreign filing, paid the petition fee, and has made the proper statement of unintentional delay.

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

A Corrected Filing Receipt which sets forth the projected publication date of May 6, 2004 accompanies this decision on petition.

With the instant petition, petitioner has filed a Terminal Disclaimer. As the Terminal Disclaimer is not necessary, it has not been entered, and the associated fee will be refunded to petitioner's Deposit Account, as authorized in the petition.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

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

Encl. Corrected Filing Receipt

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NOV - 9 2004

In re Application of SPRAIN, HARRY PAUL
Appl. No.: 10/289,523
Filed: November 06, 2002
For: APPARATUS AND PROCESS FOR GENERATING ENERGY

WITHDRAWAL FROM ISSUE
37 CFR 1.313

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

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

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Richard Seidel
Director
Patent Examining Technology Center 2800

Thomas A. Hodge
Baker, Donelson, Bearman & Caldwell
Suite 900
Five Concourse Parkway
Atlanta, GA 30328

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

MAIL

JUL 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

#9

In re Application of:
Guy M. Kelly, et al.
Application No. 10/289,542
Filed: November 5, 2002
For: **SMART CARD FAST-CLAMPING RECEIVER FOR PULSED RF FIELDS**

DECISION ON PETITION

This is a decision on the petition filed February 3, 2005, to Withdraw Holding of Abandonment pursuant to 37 CFR 1.181(a). No fee is required.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a response to the Office action mailed December 18, 2003 which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on September 8, 2004.

Petitioner alleges to have timely filed a response to the Office action on June 18, 2004. To support this position, Petitioner has included with the instant petition a copy of the response including an amendment, petition for three months extension of time, and a copy of a previously filed Revocation of Power of Attorney, with Statement under 3.73(b); all bearing proper certificate of facsimile transmission with a transmission date of June 18, 2004. Also included with the petition is a copy of an Auto-Reply Facsimile Transmission indicating that a 15 page document from Petitioner was received in the U.S. Patent and Trademark Office on June 18, 2004.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for processing of the petition for three month extension of time and entry of the amendment/response.

From there, the file will be forwarded to the examiner for consideration in due course.

Krista Zele
Special Program Examiner
Technology Center 2600

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Paper No.

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

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SEP 01 2004

OFFICE OF PETITIONS

In re Application of Bhatt et al. Application No. 10/289,608 Filing Date: November 7, 2002 Attorney Docket No. 27066.0162	: : : : :	DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed August 12, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed January 15, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time under § 1.136(a) permitted. No extension having been obtained and no reply filed, the above-identified application became abandoned on April 16, 2004. A Notice of Abandonment was mailed on August 25, 2004.

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 required statement of unintentional delay.

It is noted that petitioner became the assignee of record on April 1, 2004, and thus, is considered a proper party to file this petition. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith in accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Furthermore, applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Office. 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 responses filed August 12, 2004, will be considered by the examiner in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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TEKTRONIC INC
PO BOX 500
DELIVERY STATION 50 LAW
BEAVERTON, OR 97077

MAILED

JUN 23 2009

OFFICE OF PETITIONS

In re Patent No. 6,937,570 :
Issue Date : August 30, 2005 :
Application No. 10/289,608 : NOTICE
Filed: November 7, 2002 :
Patentee(s): Yogesh Bhatt, et al.

The above-identified patent has been referred to the Office of Petitions for consideration of a communication filed April 9, 2009 by Dennemeyer & Co LTD. The communication is being treated as a request under 37 CFR 1.128(c), as it includes authorization to charge a maintenance fee deficiency and a letter indicating that patentee is no longer entitled to claim status as a small entity. It is noted that the request is not signed in accordance with 37 CFR 1.33(b).[1]

At present, the request is DISMISSED.

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this notice. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Request under 37 CFR 1.28(c)."

In addition, the renewed request to accept a deficiency in the fee payment under 37 CFR 1.28(c), must (1) be properly signed by a responsible party pursuant to 37 CFR 1.33(b); (2) identify when small entity status was lost and (3) explain why proper notification, as required by 37 CFR 1.27(g)(2), was not provided. See 37 CFR 1.28(c).

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

[1]37 CFR 1.33(b) states:

Amendments and other papers filed in the application must be signed by:

An attorney or agent of record appointed in compliance with §1.34(b);
A registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34(a);
The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or
All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

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: DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

[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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MILLS & ONELLO LLP
SUITE 605
ELEVEN BEACON STREET
BOSTON, MA 02108

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OFFICE OF PETITIONS

In re Patent No. 6,880,390 :
Issue Date: April 19, 2005 :
Application No. 10/289,631 : ON PETITION
Filed: November 7, 2002 :
Attorney Docket No. BSM-0001 :

This is a decision on the petition filed May 15, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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#5

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Office of the Director
Group 3600

Jonathan A. Platt
Renner, Otto, Boisselle & Sklar, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland OH 44115-2191

In re Application of :
Daniel Chasman et al. :
Application No. 10/289,651 :
Filed: November 7, 2002 :
For: MISSILE CONTROL SYSTEM AND METHOD :

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 February 20, 2004.

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

☒ Postcard receipt being dated December 4, 2003.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment 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.

/mjz: 3/18/04

Randolph A. Reese
Special Programs Examiner
Group 3600

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RENNER, OTTO, BOISSELLE & SKLAR, L.L.P.
1621 Euclid Avenue, 19th Floor
Cleveland, Ohio 44115-2191

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OFFICE OF PETITIONS

Applicant: Chasman et al.
Appl. No.: 10/289,651
Filing Date: November 7, 2002
U.S. Patent No.: 7,108,223
Issue Date: September 19, 2006
Title: MISSILE CONTROL SYSTEM AND METHOD
Attorney Docket No.: PD-02W098
Pub. No.: US 2005/0011989 A1
Pub. Date: January 20, 2005

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on March 31, 2005, for the above-identified application.

The request is DISMISSED as moot.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

Since the application has already issued as U.S. Patent No. 7,108,223 on September 19, 2006, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

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

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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JONES DAY (RIM) – 2N
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Patent No. 7,269,548	:	
Application No. 10/289,656	:	
Filed: November 7, 2002	:	ON PETITION
Issued: September 11, 2007	:	
Attorney Docket No. 555255012394	:	

This is a decision on the petition filed September 29, 2009, 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**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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Thompson Coburn, LLP
One US Bank Plaza
Suite 3500
St. Louis, MO 63101

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OFFICE OF PETITIONS

In re Application of	:	
Wayne J. Bené	:	
Application No. 10/289,679	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. 46391-54877	:	

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

The petition is **GRANTED**.

A final Office action was mailed to applicant on October 28, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on January 29, 2005.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, a Request for Continued Examination (RCE) under 37 CFR 1.114. Receipt of the RCE is acknowledged.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the $510 extension of time fee submitted with the present petition was subsequent to the six-month statutory period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2800 for processing the RCE filed with the instant petition.

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

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HAMRE, SCHUMANN, MUELLER & LARSON PC
P O BOX 2902-0902
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:
Akihiro Yasuda et al	:
Application No. 10/289,685	: DECISION GRANTING PETITION
Filed: November 6, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10873.1063US01	:

This is a decision on the petition, filed December 14, 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 16, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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WASHINGTON, D.C. 20231
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Paper No. 03

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

MAY 27 2003

In re Application of:	:	
PENGELLY, *et al.*	:	
Application No. 10/289,734	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: November 06, 2002	:	
For: RF TRANSISTOR AMPLIFIER LINEARITY USING SUPPRESSED THIRD ORDER TRANSCONDUCTANCE	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 24, 2003.

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

The request meets all the above requirements. The request was signed by William L. Shaffer, an attorney of record in the above identified application, and there is no outstanding Office action requiring a response by the applicant.

The request is approved.

The application currently has no attorney of record.

All future communications from the Office will be directed to Henry K. Woodward, at the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Henry K. Woodward
Beyer Weaver & Thomas, LLP
590 West El Camino Real
Mountain View, CA 94040

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NOV 18 2003

#4

PENNINGTON, MOORE, WILKINSON,
BELL & DUNBAR, P.A.
P.O. DRAWER 10095
TALLAHASSEE, FL 32303-2095

In re Application of	:	
George Mazidji et al	:	DECISION PETITION
Serial No.: 10/289,759	:	
Filed: November 7, 2002	:	
Title: Lockable Tranquilizer Bracelet	:	

This is in response to applicants' petition filed January 22, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d), as an invention for countering terrorism.

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

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THOMPSON HINE, L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

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JUL 3 1 2008

In re Patent No. 7,354,574	:	
Issue Date: April 8, 2008	:	
Application No. 10/289,772	:	ON PETITION
Filed: November 7, 2002	:	
Patentee(s): Gholam A. Peyman	:	

This is a decision on the request for Certificate of Correction filed May 29, 2008, which is being treated as a request under 37 CFR 3.81[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 Office acknowledges receipt of $100 for the Certificate of Correction and a $130 processing fee for treatment of the instant request under 37 CFR 3.81. However, the request fails to contain the statement required by 37 CFR 3.81(b).

37 CFR 3.81(b) states:

> After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, **must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17 (i) of this chapter.

In view of the above, the request is **dismissed**.

[1] *See Official Gazette of June 22, 2004*

The file does not indicate a change of address has been submitted, although the address given on the request differs from the address of record. If appropriate, a change of correspondence address should be filed. A courtesy copy of this decision is being mailed to the address given in the request. However, Petitioner should note that a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding maintenance fees for the above patent, a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted. See USPTO forms PTO/SB/47 and PTO/SB/125.

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

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed request under 37 CFR 3.81(b).

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: Beverly A. Lyman
Thompson Hine, LLP
312 Walnut Street, 14th Floor
Cincinnati, OH 45202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Novembe 14, 2007

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No./10/289775 patent no.72528822

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

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

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

Please check claim renumbering.

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: _____

D. Wu — **SPE**

1796 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

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

In re Application of	:	
Kabeya, et al.	:	
Application No. 10/289,793	:	DECISION ON PETITIONS
Filed: November 7, 2002	:	
Attorney Docket No. Michael Barr	:	

This is a decision on the petition under 37 CFR 1.59(b), filed December 19, 2003. The petition was recently forwarded to the Office of Petitions for consideration.

The petition to expunge is **GRANTED**.

As set forth in MPEP 724.05, a petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;

(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who

submitted the information or to the party in interest on whose behalf the information was submitted;

(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

As the instant application is an Image File Wrapper (IFW), the petition to expunge will be effectuated by closing the record concerned to the public.

The matter is being forwarded to Group Art Unit 1762.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

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OCT 2 3 2003

OFFICE OF PETITIONS

In re Application of
LeJeune et al.
Application No. 10/289,819
Filed: November 7, 2002
For: METHOD FOR PRODUCING UNIQUE HOLOW CORE CONCRETE PANELS
Attorney Docket No: F02.2P-10233-US02
Pub. No.: US 2003/0115822 A1
Pub. Date: June 26, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on October 14, 2003 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in the title, as "Hollow" is misspelled.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The request for corrected publication received on October 14, 2003, was not timely filed under 37 CFR 1.221(b). If the corrected publication request was timely filed, the error in the title would not have been considered a material error, as it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. Furthermore, the title of the invention was correctly published as it was listed on the Application Data Sheet (ADS) on filing.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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

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

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 3635 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
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-05

ARLENE J. POWERS
GAUTHER & CONNORS LLP
225 FRANKLIN STREET
SUITE 3300
BOSTON MA 02110

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OCT 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Angelini et al.	:	
Application No. 10/289,825	:	DECISION ON PETITION
Filed: 7 November, 2002	:	
Atty Docket No. 6980	:	

This is a decision on the petition filed on 25 May, 2005,[1] under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

---

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

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

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

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

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

The application became abandoned on 9 December, 2004, for failure to timely reply to the non-final Office action mailed on 8 September, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 6 June, 2005.

Petitioners have submitted an amendment as the required reply.

This application is being referred to Technology Center 3700 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS MO 63006

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OFFICE OF PETITIONS

In re Application of	:	
Linda Susan Wood et al	:	
Application No. 10/289,845	:	DECISION ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. PC27224A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 14, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 October 15, 2006.

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

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

This application is being referred to Technology Center AU 1634 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEGAL DEPARTMENT INTELLECTUAL PROPERTY
KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO, TX 78265-9508

In re Application of	:	
Rolf Weidenhagen et al	:	
Application No. 10/289,867	:	DECISION ON PETITION
Filed: November 7, 2002	:	TO WITHDRAW
Attorney Docket No. BBMG-102US	:	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 17, 2005.

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

A review of the file record indicates that the power of attorney to Robert W. Mason, along with all of the other attorneys associated with Customer No. **30159** has been revoked by the applicants of the patent application on December 8, 2005. 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/assignee or the current attorneys of record.

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

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee: AB

cc:

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482-0980

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Paper No: __

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RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

In re Application of	:	
Weidenhagen, et al.	:	
Application No. 10/289,867	:	DECISION
Filing Date: 7 November, 2002	:	
Attorney Docket No.: BBMG-102US	:	

This is a decision on the petition filed on 19 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 5 October, 2005, with reply due absent extension of time on or before Monday, 5 January, 2006;
- the instant application went abandoned after midnight 5 January, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;

- on 19 June, 2006, Petitioner filed the instant petition with fee, a reply in the form of an amendment, and made the statement of unintentional delay.

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]

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] 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.[8]))

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

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

CONCLUSION

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

The instant application is released to the Examiner in Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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

CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON, FL 33487

Mail Date: 04/21/2010

Applicant	: Lance D. Bader	: DECISION ON REQUEST FOR
Patent Number	: 7650325	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/289,868	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1918** 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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TYCO TECHNOLOGY RESOURCES
SUITE 450
4550 NEW LINDEN HILL ROAD
WILMINGTON DE 19808-2952

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SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Eswarappa Channabasappa et al :
Application No. 10/289,874 : ON PETITION
Filed: November 7, 2002 :
Attorney Docket No. 17901 :

This is a decision on the petition, filed August 31, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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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
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Husky Injection Molding Systems, LTD
CO/AMC Intellectual Property Grp
500 Queen St. South
Bolton, Ontario L7E 5S5
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Jim Izudin Pilavdzic, et al.	:	
Application No. 10/289,879	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. H-628	:	

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

The petition is **GRANTED**.

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 Richard Bauer appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if Mr. Bauer desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the person signing the statement of unintentional delay, namely Richard Bauer, 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. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in submitting a reply to the outstanding office action under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

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

cc: Richard Bauer
Katten Muchin Zavis Rosenman
525 West Monroe Street, Suite 1600
Chicago, IL 60661-3693

UNITED STATES PATENT AND TRADEMARK OFFICE

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SNELL & WILMER LLP
600 ANTON BOULEVARD, SUITE 1400
COSTA MESA, CA 92626

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DEC 01 2005

OFFICE OF PETITIONS

In re Application of	:
Hideyuki Ikeda et al	:
Application No. 10/289,906	: DECISION GRANTING PETITION
Filed: November 7, 20002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. N42479-0100	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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) 272-3218.

This matter is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Paper No. 7

BROOKE SCHUMM III
ONE NORTH CHARLES STREET
SUITE 2450
BALTIMORE, MD 21014

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Guilford et al. :
Application No. 10/289,934 :
Filed: November 7, 2002 :
For: Systemic Administration Of NAC As An Adjunct In The Treatment Of Bioterror Exposures Such As Anthrax, Smallpox Or Radiation And For Vaccination Prophylaxis, And Use In Combination With Dhea For The Treatment Of Smallpox And Other Viruses :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 22, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed August 13, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 14, 2003. A Notice of Abandonment was mailed on March 23, 2004.

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

The Terminal Disclaimer filed on July 22, 2004 is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will be placed in the application file. The fee for filing the Terminal Disclaimer will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROOKE SCHUMM III
ONE NORTH CHARLES STREET
SUITE 2450
BALTIMORE MD 21201

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JUN 08 2007

OFFICE OF PETITIONS

In re Application of :
Guilford et al. :
Application No. 10/289,934 : ON PETITION
Filed: November 7, 2002 :
Title: SYSTEMIC ADMINISTRATION OF NAC AS AN ADJUNCT IN THE TREATMENT OF BIOTERROR EXPOSURES SUCH AS ANTHRAX, SMALLPOX OR RADIATION AND FOR VACCINATION PROPHYLAXIS, AND USE IN COMBINATION WITH DHEA FOR THE TREATMENT OF SMALLPOX AND OTHER VIRUSES :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 21, 2006, 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 March 3, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 4, 2006.

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.

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]

The instant petition lacks item (1). The amendment document submitted with the instant petition is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. A substitute amendment should be submitted.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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

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BROOKE SCHUMM III
ONE NORTH CHARLES STREET
SUITE 2450
BALTIMORE MD 21201

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Guilford et al.	:	
Application No. 10/289,934	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. 1624	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 18, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES 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

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

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OCT 06 2004

OFFICE OF PETITIONS

In re Application of	:	
Craig Edward Lauchner	:	
Application No. 10/289,950	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. 100201581-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 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 9, 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 April 10, 2004.

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

The application is being forwarded to Technology Center AU 3634 for further processing.

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

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SEP 09 2004

Director's Office
Group 3700

Paper No. 8

In re Application of
Lawrence Heren *et al*
Application No. 10/289,954
Filed: November 7, 2002
Attorney Docket No. 02039346

DECISION ON PETITION

This is a decision on the petition filed on February 2, 2004 by which petitioners request that this application be withdrawn from issue for purposes of considering an Information Disclosure Statement (IDS) alleged to have been originally filed on November 7, 2002. This petition is being considered under 37 CFR 1.313(a), and the $130.00 fee has been received.

The petition is dismissed as moot.

A review of the application record shows that the IDS was in fact considered by the examiner and a Supplemental Notice of Allowability so indicating was mailed on February 19, 2004.

It is noted that the issue fee and the publication fee were paid on April 9, 2004. However, on February 25, 2004, a petition to change inventorship (37 CFR 1.48(a)) was filed. A cursory review of the petition (which is to be decided by the Primary Examiner, see MPEP § 1002.02(e)) shows that the petition cannot be granted, because no certification establishing the assignee's authority to take action accompanied the petition. See 37 CFR 3.73(b) and MPEP § 324. Therefore, this application will be withdrawn from issue pursuant to the procedure discussed in MPEP § 1308, subsection II(2). entitled "Withdrawal From Issue At The Initiative Of the Office After Issue Fee is Paid" (page 1300-31 of the MPEP).

A letter withdrawing this application from issue will be prepared and mailed in due course. The examiner will then formally evaluate the 37 CFR 1.48(a) petition and communicate with applicants to obtain a satisfactory petition or reject the claims based upon 37 CFR 1.102(f).

PETITION DISMISSED.

Richard A. Bertsch, Director
Technology Center 3700

Daniel H. Shulman
Mayer, Brown Rowe & Maw
P.O. Box 2828
Chicago, IL 60690-2828

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090914

DATE : September 14, 2009

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 - 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: /Andrea L. Wellington/ **Art Unit** 2627

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P.O. BOX 55874
BOSTON MA 02205

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Hideki Tsuchida et al
Application No. 10/289,964
Filed: November 7, 2002
Attorney Docket No. 51570

This is a decision on the petition, filed February 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1753 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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ALEXANDRIA, VA 22313-1450
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JUN 24 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Keith A. Vogt
Niro, Scavone, Haller & Niro
Suite 4600
181 W. Madison
Chicago, IL 60602

In re Application of Dale Ropp Application No. 10/289,973 Filed: November 7, 2002 For: SEAT SUSPENSION SHOCK ABSORBER	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on April 30, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed April 14, 2004 because of applicants' failure to reply to the non-final Office action of August 18, 2003.

Petitioner states that a response was filed by mail on January 20, 2004. The copy of the response submitted with the petition includes a Postcard receipt dated January 23, 2003 and a signed Certificate of Mailing dated January 20, 2004. Since a two month extension of time requires a file date no later than January 20, 2004 applicant cannot rely on the Postcard receipt and must rely on the Certificate of Mailing dated January 20, 2004 for the petition to withdraw the holding of abandonment.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) by the person who signed the certificate attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the

original response by mail on the date indicated on the certificate, by the person who signed the certificate.

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(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

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

SNM/vdb: 6/22/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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#13

Keith A. Vogt
Niro, Scavone, Haller & Niro
Suite 4600
181 W. Madison
Chicago, IL 60602

MAILED
FROM DIRECTORS OFFICE

JAN 11 2005

TECHNOLOGY CENTER 3600

In re Application of
Dale Ropp
Application No. 10/289,973
Filed: November 7, 2002
For: SEAT SUSPENSION SHOCK ABSORBER

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on July 22, 2004.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing signed on January 20, 2004, and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

KJD/rwg: 1/5/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

SPE: T. Meeks

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/15/07

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/289,986 Patent No.: 7094451

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: _____

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE

1762
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARD J. LYNCH
DUANE MORRIS LLP
ONE MARKET
SPEAR TOWER, SUITE 2000
SAN FRANCISCO, CA 94125

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JUL 2 3 2004

OFFICE OF PETITIONS

In re Application of
Paul Lubock
Application No. 10/290,002
Filed: November 6, 2002
Attorney Docket No. R0367-03100

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3736 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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OCT 05 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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

In re application of
Jayant Ramchandani et al.
Application No. 10/290,008
Filed: November 7, 2002
For: CUSTOMER RELATIONSHIP MANAGEMENT SYSTEM FOR PHYSICAL LOCATIONS

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed April 23, 2004 to make the above-identified application special.

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

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

The petition filed April 23, 2004 meets 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/vdb: 9/30/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 21, 2007

TO SPE OF : ART UNIT 1732

SUBJECT : Request for Certificate of Correction for Appl. No. 10/290012 patent No.: 7112313

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1732

Art Unit

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Exavio, Inc.
c/o Ji Zhang
16225 Oakhurst Drive
Monte Sereno, CA 95030-4123

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MAY 28 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jiangang Ding, et. al. :
Application No. 10/290,013 :
Filed: November 7, 2002 :
Attorney Docket No. EX-02-01 :

This is a decision on the petition, filed May 19, 2004, to correct assignment data on Form PTOL-85(b).

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 forwarded to the Publishing Division to be processed into a patent.

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
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MAR 22 2007

OFFICE OF PETITIONS

HEIMLICH LAW
5952 DIAL WAY
SAN JOSE, CA 95129

In re Application of
Michel C. Burger
Application No. 10/290,023
Filed: November 6, 2002
Attorney Docket No. 005168.P010

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 19, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

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

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

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

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

The 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. Therefore, no further action being required, this application is being referred to the Technology Center 3621 for further prosecution.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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HOGAN & HARTSON LLP
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Monori Kajimoto et al	:	
Application No. 10/290,028	:	DECISION ON PETITION
Filed: November 6, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 81790.0258	:	

This is a decision on the petition, filed December 22, 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,** *nunc pro tunc*.

The file record discloses that a first Notice of Allowance and Fee(s) Due was mailed on October 13, 2004. The issue and publication fees were timely paid on December 15, 2004. Thereafter, on December 22, 2004, petitioner submitted a petition under 37 CFR 1.313(c)(2) to withdraw this application from issue, a Request for Continued Examination under 37 CFR 1.114, and an Information Disclosure Statement.

It is noted that, although the petition to withdraw from issue had not been acted upon by the appropriate deciding official of the U.S. Patent and Trademark Office, the Technology Center processed the request for continued examination (RCE) under 37 CFR 1.114 and subsequently issued a new Notice of Allowance and Fee(s) Due and Notice of Allowability on March 17, 2005. Where an issue fee has been paid and an RCE is subsequently filed, the RCE is not a proper filing unless a petition to withdraw from issue has been granted. Therefore, the examiner was without authority to act further in the case absent a grantable petition withdrawing the application from issue. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

The file record of this case discloses that, on June 13, 2005, prior to the due date for submission of the issue fee required by

Notice of March 17, 2005, petitioner submitted an RCE and an Information Disclosure Statement. Thereafter, on November 14, 2005, a new Notice of Allowance and Fee(s) Due and Notice of Allowability were mailed, requiring submission of the issue fee on or before February 14, 2006. The issue fee was submitted on February 6, 2006. Based on the payment of the February 6, 2006 issue fee, this application is now scheduled to issue on August 22, 2006.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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MAR 3 1 2008

In re Application of

HUANG, Qiang
Application No. 10/290,047
Filed: November 06, 2002
Attorney Docket No. **019816-002300US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on October 19, 2007.

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 Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **KAI-CHING CHU**
MEDIOSTREM INC.
4962 EL CAMINO REAL, SUITE 201
LOS ALTOS, CA 94022

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THOMAS A. BECK
6136 WEST KIMBERLY WAY
GLENDALE, AZ 85308-7627

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OFFICE OF PETITIONS

In re Application of
Yu-Ting Cheng et al.
Application No. 10/290,049
Filed: December 12, 2006
Attorney Docket No. YOR920010510US1

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed July 30, 2009, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

This application became abandoned for failure to file a timely and compliant response to the Final Office Action mailed October 19, 2005. Petitioner was advised in a Notice of Non-Compliant Amendment (37 CFR 1.121) mailed August 3, 2006 that the response filed February 28, 2006 was non-compliant. Since the response was an after-final amendment, the time continued to run from the mailing of the Final Office Action and no new time period for reply was set. Accordingly, a Notice of Abandonment was mailed April 19, 2007.

Petitioner claims that neither the Non-Compliant Amendment (37 CFR 1.121) mailed August 3, 2006 or the Notice of Abandonment mailed April 19, 2007 was received because a previously filed Change of Address was not processed.

A review of the file reveals however that an address change was filed on November 15, 2004 but that the information was not updated prior to the mailing of the Non-Compliant Amendment (37 CFR 1.121) on August 3, 2006. Thus, the Non-Compliant Amendment (37 CFR 1.121) was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 2814 for a re-mailing of the Non-Compliant Amendment (37 CFR 1.121).

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

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 7

Alan MacPherson
MacPherson Kwok Chen and Heid LLP
2001 Gateway Place Suite 195
San Jose CA 95110

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MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of
Gurkowski, et al.
Application No. 10/290,066
Filed: November 6, 2002
Attorney Docket No. M-8375-1C US
For: ASYNCHRONOUS INPUT/OUTPUT INTERFACE PROTOCOL

ON PETITION

This is a decision on the petition, entitled, "PETITION UNDER 37 CFR 1.182," filed January 21, 2003 (certificate of mailing date January 16, 2003), requesting, in effect, partial withdrawal of a Notice mailed December 11, 2002, insofar as the Notice alleges Figure 2 was omitted on filing. The petition will be treated under 37 CFR 37 CFR 1.53(e) and 1.182.

The application was filed on November 6, 2002. On December 11, 2002, The Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) stating, *inter alia*, that the application had been accorded a filing date of November 6, 2002, and advising applicants that figure 2 appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that the drawing should be included with the papers filed on November 6, 20002, because (1) they were included among the papers filed on November 6, 2002, and (2) they were originally filed in prior application No. 09/539,842, the entire disclosure of which was incorporated by reference at the time of filing.

The petition under 37 CFR 1.53(e) is dismissed.

The petition under 37 CFR 1.182 is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the 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)).

In this case, Petitioners argue that 4 sheets of drawings, including Figure 2, were filed with the other application papers on November 6, 2002. In support, the petition is accompanied by a copy of applicants' date stamped return postcard receipt showing 4 sheets of drawings were received in the Office on November 6, 2002.

The best evidence of what was filed on November 6, 2002, is applicants' postcard receipt. In this case, applicants' postcard receipt identifies 4 sheets of drawings as papers filed on November 6, 2002.

A review of the contents of the file shows that 4 sheets of drawings were, in fact, filed on November 6, 2002, and are presently in the file. However, no drawing containing Figure 2 (other than that supplied with the instant petition) is present. The file contains drawings of Figures 1,3,4, and 5. These are the 4 sheets of drawings that the Office received on November 6, 2002. Thus, the file shows that no sheet of drawing containing Figure 2 was filed on November 6, 2002.

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

In the alternative, applicants seek to add the figure 2 to the present application on the basis that the figure should be added to the application because parent application no. 09/539,842 was incorporated by reference when the instant application was filed. However, no petition is necessary for that purpose. Additional figures may be entered by the primary examiner without a petition so long as the pages contain no new 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 applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

If applicants desire that figure 2 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the figure. 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 under 37 CFR 1.182 is inappropriate and **dismissed**.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 6, 2002. Drawing figure 2 will not be processed at this time.

Thereafter, the application will be forwarded to Technology Center 2100 for examination in due course.

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

Technology Center 1700

Mailed: 7/14/05

meb
Paper Number: _____

In re application of
Brian Medower, et al

Serial No. 10/290,067
Filed: November 6, 2002
For: Miniature Optical Disk For Data Storage

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT, filed May 18, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 17, 2004 for failure to timely respond to the Office Action mailed March 29, 2004, be withdrawn. The petitioner asserts that the Office Action mailed March 29, 2004 was not received by the applicants, because the Office mailed the action to the wrong address. The petitioner asserts that a Change of Correspondence Address was filed with the Office on February 27, 2004, which was apparently not properly processed by the Office, as the Office Action of March 29, 2004 was mailed to the incorrect address.

DECISION

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

The evidence presented is sufficient to establish that the Office Action was not received by the petitioner. According to Office records, the a Change of Correspondence Address was filed with the Office on March 1, 2004 and was not properly processed and thus the Office Action of March 29, 2004 was mailed to the incorrect address.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Office Action to the correspondence address and restarting of the statutory period of response from the remail date thereof. The correspondence address has been changed in accordance with the papers filed March 1, 2004.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

JONATHAN W. HALLMAN
MACPHERSON, KWOK, CHEN &HEID
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE, CA 95110

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STEPHANIE J. FELICETTY
IN RE: ALTICOR INC. 28533
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
MARY A. MURRAY, et al	:	DECISION ON REQUEST
Application No. 10/290,079	:	FOR RECONSIDERATION OF
Filed: November 7, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 3086/1361	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed May 23, 2005. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests confirmation of the issuance of a patent term adjustment of 244 days.

The request for review of the determination of patent term adjustment (PTA) is **granted**.

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 **one hundred ninety-one (191)** days. A copy of the updated PAIR screen, showing the correct determination is enclosed.

On May 23, 2005, patentee submitted the instant comment. On February 18, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 244 days. Applicant states no basis for the request for review of the patent term adjustment. Nonetheless, a review of the application history confirms that an incorrect number of days were determined for applicant delay.

A supplemental Information Disclosure Statement (IDS) was filed on January 28, 2005, 53 days after the filing of the response to a non-final action by applicant dated December 6, 2004. This

supplemental IDS was not expressly requested by the examiner. An IDS filed after a response is considered to be a supplemental reply pursuant to 1.704(c)(8) unless it contains the statement pursuant to 1.704(d). The IDS dated January 28, 2005 does not contain the required statement under 1.704(d), and thus is considered to be a supplemental response under 1.704(c)(8) as a failure to engage in reasonable efforts to conclude prosecution. Therefore, an additional delay of 53 days is added to applicant's delay.

In view thereof, the Patent Term Adjustment has been corrected to one hundred ninety-one (191) days (244 days for PTO delay and 53 days for Applicant delay).

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 applicant for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

Telephone inquiries specific to this matter should be directed to Amelia Au, at (571) 272-7414.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Crompton, Seager, & Tufte, LLC
1221 Nicollet Ave. Suite 800
Minneapolis, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Richard J. Linder	: DECISION ON REQUEST FOR
Patent Number	: 7594926	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/290,099	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1971** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 31 2008

In re Application of	:	
UKE, Alan K.	:	
Application No. 10/290,102	:	DECISION ON PETITION
Filed: November 05, 2002	:	TO WITHDRAW
Attorney Docket No. **022992-0201**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2007.

The request is **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 Richard J. Warburg on behalf of all attorneys of record who are associated with customer No. 30542. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed February 04, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ALAN K. UKE**
355 14TH STREET
DEL MAR, CA 92014

cc: **UNDERWATER KINETICS, INC.**
13400 DANIELSON STREET
POWAY, CA 92064

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Biotechnology Law Group
c/o PORTFOLIO IP
P.O. Box 52050
Minneapolis, MN 55402

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In re Application of	:	
Alan K. Uke	:	
Application No. 10/290,102	:	ON PETITION
Filed: November 5, 2002	:	
Attorney Docket No. UWK-5080-UT	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 4, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 5, 2008.

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

Petitioner has submitted $770 with the instant petition for the payment of the petition fee. However, effective October 2, 2008, the Patent and Trademark Office fees have increased. The fee for a petition to revive is now $810 for a small entity, and the balance owed reflects the new current fees. Therefore, petitioner must submit the balance of $40 towards the fee for a petition to revive under 37 CFR 1.137(b) before this application can be revived.

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 JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

10/290102 Examiner: NGUYEN, ANTHONY GAU: 2854
Inventor: UKE , ALAN Classification: 400/472.000
Status: 161 - ABANDONED -- FAILURE TO RESPOND TO AN OFFICE ACTION
Title: MODIFIABLE KEYBOARD SYSTEM
Start Date: End Date:

bib_fee report (12 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
11/20/2008	51	1	1999	$770.00	11/20/2008	CK
09/26/2008	1787	4	8021	$40.00	09/25/2008	CC
10/15/2007	1147	4	2401	$255.00	10/12/2007	CC
11/20/2006	83	1	2801	$395.00	11/17/2006	CC
11/20/2006	84	1	2251	$60.00	11/17/2006	CC
04/25/2006	63	1	2251	$60.00	04/24/2006	CC
06/24/2003	174	1	2254	$725.00	06/23/2003	CK
06/24/2003	175	1	2001	$375.00	06/23/2003	CK
06/24/2003	176	1	2051	$65.00	06/23/2003	CK
06/24/2003	177	1	2202	$324.00	06/23/2003	CK
06/24/2003	178	1	2201	$5.00	06/23/2003	DA 500872
06/24/2003	179	1	2201	$289.00	06/23/2003	CK

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PTO/SB/64 (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)
UWK-5080-UT

First named inventor: Alan Uke

Application No.: 10/290,102

Art Unit: 2854

Filed: 11-05-2002

Examiner: NGUYEN, ANTHONY H

Title: Modifiable keyboard system

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 $ 770.00 (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 Response to Office Action mailed February 4, 2008 (identify type of reply):

☐ has been filed previously on
☑ is enclosed herewith.

11/20/2008 NNGUYEN1 00000026 10290102
01 FC:1999 770.00 OP

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.

	November 12, 2008
Signature	Date
Daniel M. Chambers	34561
Typed or printed name	Registration Number, if applicable
BioTechnology Law Group, c/o PortfolioIP	858-350-9690
Address	Telephone Number
P.O. Box 52050, Minneapolis, MN 55402	
Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:

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

I hereby certify that this correspondence is being:

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

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

November 12, 2008

Date 12 Nov 2008

Signature

Daniel M. Chambers

Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Biotechnology Law Group
c/o PORTFOLIO IP
P.O. Box 52050
Minneapolis, MN 55402

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Alan K. Uke :
Application No. 10/290,102 :
Filed: November 5, 2002 :
Attorney Docket No. UWK-5080-UT :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 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, February 4, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of arguments/remarks, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2854 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/26/08

TO SPE OF : ART UNIT 3721 PARADISO, John

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/290109 Patent No.: 7383675

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: Requested change in Title more accurately describes the patented invention.

_____ **SPE**

3721
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

NANOSOLAR, INC.
2440 EMBARCADERO WAY
PALO ALTO CA 94303

COPY MAILED
JUL 25 2006
OFFICE OF PETITIONS

In re Application of
Brian M. Sager et al.
Application No. 10/290,119
Filed: November 5, 2002
Attorney Docket No. NSL-005

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3) filed April 14, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment. The petition is treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e).

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the petition is **DISMISSED**.

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

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

By hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (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
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, VA22313-1450
www.uspto.gov

NANOSOLAR, INC.
2440 EMBARCADERO WAY
PALO ALTO CA 94303

COPY MAILED

MAR 23 2007

OFFICE OF PETITIONS

In re Application of
Brian M. Sager et al.
Application No. 10/290,119
Filed: November 5, 2002
Attorney Docket No. NSL-005

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(6) filed September 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78 was filed April 14, 2006 and dismissed in a decision mailed July 25, 2006 because the amendment submitted with the petition was unacceptable and, therefore, could not be considered a proper reference under 37 CFR 1.78(a)(2)(i). More specifically, the amendment was physically a part of the petition and, as such, did not comply with 37 CFR 1.121, 1.52, or 1.4(c). 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.

Comes now petitioner with the instant renewed petition and amendment.

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.

This pending nonprovisional application was filed on November 5, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/390,904, which was filed on June 22, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, 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 fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartera Donnell for
Ira Lazarus
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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2440 EMBARCADERO WAY
PALO ALTO CA 94303

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APR 27 2007

OFFICE OF PETITIONS

In re Application of
Brian M. Sager et al.
Application No. 10/290,119
Filed: November 5, 2002
Attorney Docket No. NSL-005

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the second renewed petition under 37 CFR 1.78(a)(6) filed March 27, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78 was filed April 14, 2006 and dismissed in a decision mailed July 25, 2006 because the amendment submitted with the petition was unacceptable and, therefore, could not be considered a proper reference under 37 CFR 1.78(a)(2)(i). More specifically, the amendment was physically a part of the petition and, as such, did not comply with 37 CFR 1.121, 1.52, or 1.4(c). 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.

A renewed petition filed September 27, 2006 was dismissed in a decision mailed March 23, 2007 because the concurrently filed amendment improperly incorporated by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Comes now petitioner with the instant renewed petition and an amendment.

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 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 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, was mailed December 1, 2006.

A refund in the amount of $1370 for the duplicate petition fees will be refunded in due course.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the

examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1753 for appropriate action on the amendment filed March 27, 2007 and the Application Data Sheet filed November 8, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 119(e) to the prior-filed application.

Christina Tartera Donnell for

Charles Pearson,
Director
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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FEB 05 2007

OFFICE OF PETITIONS

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK NY 10018

In re Application of	:	
Berkulin, et al.	:	DECISION ON PETITION
Application No. 10/290,121	:	
Filed: November 7, 2002	:	
Docket No.: 541.1038CIP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 6, 2006, 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 January 19, 2006. The Notice set a one 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 13, 2006.

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

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

This application is being forwarded to Technology Center 1600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS DICKEY & PIERCE PLC
P O BOX 8910
RESTON, VA 20195

COPY MAILED

MAY 19 2005

OFFICE OF PETITIONS

In re Application of
Dirk Hertz et al
Application No. 10/290,152
Filed: November 8, 2002
Attorney Docket No. 32860-000430/US

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed May 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2836 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/14/05

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction on Patent No.: 6874997 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:

Claims 11 and 12 are not in the form as presented during prosecution (see Amendments of 11/8/02 and 9/3/04) and the scope of these claims would be changed if entered. Claims 13 and 14 do not depend from the same claims as submitt in the above mentioned amendments.

Anthony Stastink
SPE

3746
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
www.uspto.gov

Date : July 31, 2006

Stephen P. Catlin
OLIFF & BERRIDGE, PLC
P. O. Box 19928
Alexandria, VA 22320

Patent No: 6874997 B2
Application No.: 10/290169
Applicant: Tsuyoshi Watanabe, et al.
Issued: April 5, 2005
Title: **PUMP SYSTEM USING A CONTROL FLUID TO DRIVE A SWITCHING VALVE MECHANISM FOR AN ACTUATING FLUID**

Request for Certificate of Correction:

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

Respecting the alleged errors in the claims, comparison of the printed patent reveals that the claims are printed in accordance wit6h the record in the Patent and Trademark Office as passed to issue by the examiner. Per the examiner " ***Claims 11 and 12 are not in the form as presented during prosecution, and the scope of the claims would be changed if entered. Claims 13 and 14 do not depend from the same claims as submitted in the mentioned amendment's".***

In view of the foregoing, your request for a certificate of correction is hereby denied.

Correspondence concerning this matter should be filed and directed to Decisions & Certificate of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext. 113

vt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/13/07

Paper No.: —

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/390169 Patent No.: 6874992B2

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**.

Second Request
See C of C dated 9/25/06

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

3746
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/24/09

TO SPE OF : ART UNIT 2419

SUBJECT : Request for Certificate of Correction for Appl. No.: 10290185 Patent No.: 7499425 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 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

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

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MAR 0 3 2004

OFFICE OF PETITIONS

Applicant: Devin-Baudoin et al.
Appl. No.: 10/290,189
Filing Date: November 8, 2002
Title: PROCESS FOR PERMANENTLY RESHAPING THE HAIR USING PARTICULAR AMINOSILICONES
Attorney Docket No.: 05725.1135-00000
Pub. No.: US 2003/0118537 A1
Pub. Date: June 26, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on August 22, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a mistake in paragraph 0041 wherein the sentence "[t]he hair is said to be hydrophilic when the angle θ ranges from 0 to less than 90° and hydrophobic when this angle ranges from 90° to 180°" is misprinted as "[t]he hair is said to be hydrophilic when the angle θ ranges from 0 to less than 90° and hydrophobic when this angle ranges from 900 to 180°". Requester argues that this is a material error because the angles described are part of the discussion regarding the "contact angle" and when the hair is considered to be hydrophobic or hydrophilic, thus the range will affect the public's ability to appreciate the technical disclosure of the patent application publication.

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

The typographical error wherein "90° to 180°" is misprinted as "900 to 180°" in paragraph 0041 is an Office error, but it is a minor typographical error, which is clearly understandable. The mistake is clearly understandable as the term is used in stating a range of an angle and an angle can not have an angle of 900 to 180°. The mistake is a minor typographical error which is clearly understandable from reading the specification and sentence in which the term is used, as terms are

[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).

not read in a vacuum. The paragraph and the preceding paragraphs are discussing when the hair is considered to be hydrophobic or hydrophilic and the sentence states that hair is hydrophilic when the angle ranges from 0 to less than 90° and then states that the hair is hydrophobic when the angle ranges from 900 to 180°, which is clearly understandable as 90°. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

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

By facsimile: 703-305-8568

The application will be examined in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
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Washington DC 20005-3315

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OCT 2 8 2003

OFFICE OF PETITIONS

Applicant: Legrand et al.
Appl. No.: 10/290,192
Filing Date: November 8, 2002
Title: REDUCING COMPOSITION FOR TREATING KERATIN FIBRES, COMPRISING A PARTICULAR AMINOSILICONE
Attorney Docket No.: 05725.1134-00
Pub. No.: US 2003/0147840 A1
Pub. Date: August 7, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on October 3, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in a formula in paragraph 0182, as the formula "R'_2-$CONHCH_2CH_2$-N(B)(C)" is misspelled as "R_2-$CONHCH_2CH_2$-N(B)(C)".

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

The typographical error in the chemical formula in paragraph [0182] wherein the formula "R_2'-$CONHCH_2CH_2$-N(B)(C)" is misspelled as "R_2-$CONHCH_2CH_2$-N(B)(C)" is an Office error, but it is not apparent from the Office records. The error is not apparent from Office records because the apostrophe in the formula "R_2'-$CONHCH_2CH_2$-N(B)(C)" on page 36 is spaced out away from the "R" and it is in a much smaller font size than the other apostrophes on the same page, it appears to be in superscript. Since it is so small, it appears to be a stray mark and thus it is not apparent from the Office record.

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

[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).

accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1615 to await further examination in due course.

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

Mark O. Polutta

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW, SUITE 800
WASHINGTON, DC 20037

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Kiyomi Ejiri et al	:	
Application No. 10/290,193	:	DECISION GRANTING PETITION
Filed: November 8, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q72783	:	

This is a decision on the petition, filed September 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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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Paper No. 082004

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K STREET, NW
BOX IP
WASHINGTON, DC 20007

SEP 30 2004

In re Application of:	:	
LAUREN VAIL-MERRITT	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/290,199	:	
Filed: November 08, 2002	:	
Attorney Docket No.: **040092-014600US**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of McDermott, Will & Emery on May 18, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

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

Edward Westin

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

cc: MARK J. ITRI, ESQ.
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVENUE, SUITE 400
IRVINE, CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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October 1, 2007

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

Patent No: 6887036 B2
Application No: 10/290206
Applicant: Minoru Ohara, et al.
Issued: May 3, 2005
Title: **TURBINE AND MANUFACTURING METHOD THEREFOR**

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 1.322.

Inspection of the application for the above patent reveals that the errors mentioned in your request are in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

In view of the foregoing your request in these matters are hereby **denied**.

However, further consideration will be given to these matters, upon receipt of a request for certificate of correction under the provision of 1.323, accompanied by the appropriate fee, which is presently $100.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20037-3213

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,835,474	:	DECISION ON
Okada, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: December 28, 2004	:	AND NOTICE OF INTENT
Application No. 10/290,216	:	TO ISSUE
Filed: November 8, 2002	:	CERTIFICATE OF
Attorney Docket No. Q72734	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (UNDER 37 C.F.R. § 1.705(d))", filed February 3, 2005. Patentees request that the patent term adjustment indicated on the patent be corrected from zero (0) days to seventy-five (75) days.

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 **seventy-five (75)** days.

On December 28, 2004, the above-identified application matured into U.S. Patent No. 6,835,474. The instant request for reconsideration filed February 3, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of zero (0) days.

Patentees fail to state whether the patent is subject to a terminal disclaimer.

Patentees assert that the initial determination of patent term adjustment days should not have been reduced to zero (0) days for the submission of a "STATEMENT OF SUBSTANCE OF INTERVIEW".

The "STATEMENT OF SUBSTANCE OF INTERVIEW" is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of applicants' "STATEMENT OF SUBSTANCE OF INTERVIEW" is not a failure to engage under 37 C.F.R. §1.704(c)(10). Accordingly, the assessment of one hundred twenty (120) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is seventy-five (75) days (75 days of PTO delay and 0 days of applicant delay).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **seventy-five (75)** days subject to any disclaimers.

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

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

Enc: draft certificate of correction

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[1] See id.

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1100 NEW YORK AVE NW
SUITE 800
WASHINGTON DC 20005-3934

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Patent No. 6,832,816	:	
Nobuo Yamada	:	DECISION ON REQUEST FOR
Issue Date: December 21, 2004	:	RECONSIDERATION OF
Application No. 10/290,227	:	PATENT TERM ADJUSTMENT
Filed: November 8, 2002	:	UNDER 37 C.F.R. 1.705
Attorney Docket No. Q72599	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed February 17, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from fifteen (15) to ninety (90) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**. Patentee is given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

On September 8, 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 was ninety (90) days. On December 21, 2004, the above-identified application matured into U.S. Patent No. 6,832,816. The patent issued with a Patent Term Adjustment of fifteen (15) days. The instant request for reconsideration filed November 1, 2004, was timely filed within two months of the date the patent issued. See § 1.705(d).

Patentee fails to state whether the patent is subject to a terminal disclaimer.

The Office determined a patent term adjustment of fifteen (15) days based on an adjustment for PTO delay of ninety (90) 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 seventy-five (75) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(c)(10). The PTO delay is not contested. The adjustment of 75 days is at issue.

The adjustment of 75 days has been found to be correct. In this application, a Notice of Allowance was mailed on September 8, 2004. Applicant filed a "Request for Refund" on October 8, 2004. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing of a request for a refund after the mailing of a Notice of Allowance will be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will result in reduction of a patent term adjustment pursuant to 37 C.F.R. §1.704(c)(10). See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance, 1247 OG 111 (June 26, 2001).

In addition, patentee points out that if the Office should deem the filing of the refund request to be applicant delay under 37 C.F.R. §1.704(c)(10), then should delay should be measured from the date applicant filed the request (October 8, 2004) until the date the PTO credited applicant's deposit account (November 29, 2004). Patentee's argument is not persuasive. 37 C.F.R. §1.704(c)(10)(i) expressly states that the ending date of the period of applicant delay shall be "the mailing date of the Office action or notice in response to the amendment under 1.312 or such other paper [filed after a Notice of Allowance]".

In view thereof, the correct determination of PTA at the time of issuance is fifteen (15) days (90 days of PTO delay reduced by 75 days of applicant delay).

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

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

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

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OCT 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,832,816	:	
Nobuo Yamada	:	DECISION ON REQUEST FOR
Issue Date: December 21, 2004	:	RECONSIDERATION OF
Application No. 10/290,227	:	PATENT TERM ADJUSTMENT
Filed: November 8, 2002	:	UNDER 37 C.F.R. 1.705
Attorney Docket No. Q72599	:	

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed July 20, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from fifteen (15) to ninety (90) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**. Patentee is given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

On September 8, 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 was ninety (90) days. On December 21, 2004, the above-identified application matured into U.S. Patent No. 6,832,816. The patent issued with a Patent Term Adjustment of fifteen (15) days. Patentee timely filed a request for reconsideration of the Patent Term Adjustment on November 1, 2004. See § 1.705(d). However, the request was dismissed in a decision mailed on June 9, 2005.

Patentee fails to state whether the patent is subject to a terminal disclaimer.

The Office determined a patent term adjustment of fifteen (15) days based on an adjustment for PTO delay of ninety (90) 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 seventy-five (75) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(c)(10). The PTO delay is not contested. The adjustment of 75 days is at issue.

In the decision mailed on June 9, 2005, the adjustment of 75 days was found to be correct. In this application, a Notice of Allowance was mailed on September 8, 2004. Applicant filed a "Request for Refund" on October 8, 2004. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing of a request for a refund after the mailing of a Notice of Allowance will be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will result in reduction of a patent term adjustment pursuant to 37 C.F.R. §1.704(c)(10). See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance, 1247 OG 111 (June 26, 2001).

In addition, patentee argued that if the Office should deem the filing of the refund request to be applicant delay under 37 C.F.R. §1.704(c)(10), then should delay should be measured from the date applicant filed the request (October 8, 2004) until the date the PTO credited applicant's deposit account (November 29, 2004). However, Patentee's argument was not persuasive. 37 C.F.R. §1.704(c)(10)(i) expressly states that the ending date of the period of applicant delay shall be "the **mailing date** of the Office action or notice in response to the amendment under 1.312 or such other paper [filed after a Notice of Allowance]".

Accordingly, the correct determination of PTA at the time of issuance was determined to be fifteen (15) days (90 days of PTO delay reduced by 75 days of applicant delay).

Patentee filed the request for reconsideration on July 20, 2005. For the reasons cited above, patentee's arguments are again considered to be unpersuasive. In addition, patentee is reminded that he could have filed the request for a refund of $86 either before the Notice of Allowance was mailed, or after the patent had issued.

Patentee also argues that this situation is analogous to the situation where an applicant requests the Examiner to initial references listed in an IDS after a Notice of Allowance has been mailed, but was not given the opportunity to make the request prior to issuance of the Notice of Allowance. The argument is unpersuasive. Unlike a request for an initialed IDS, there is no reason why a request for a refund can not be submitted after the patent has issued. In fact, as patentee points out, a request for a refund can be filed up to two years after the patent has issued.

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

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

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Paper No.

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901 NORTH GLEBE ROAD,
11TH FLOOR
ARLINGTON VA 22203

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APR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Winter et al.	:	DECISION ON APPLICATION
Application No. 10/290,233	:	FOR
Filed: November 8, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. BJS-620-225	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)," filed April 24, 2008. Applicants request that the initial determination of patent term adjustment be corrected from four hundred twenty-seven (427) days to six hundred sixty-seven (667) days.

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

On January 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 427 days. The instant application for patent term adjustment was timely filed on April 24, 2008[1]. Applicants dispute the reduction pursuant to 37 CFR 1.704(c)(7) for the filing of a response on August 7, 2007, correcting an omission in their response filed April 9, 2007. Applicants maintain that the amendment filed April 9, 2007 complied with rule 121. Thus, entry of a period of reduction of 120 days pursuant to 37 CFR 1.704(c)(7) is not warranted. Further, applicants argue that the Notice of Non-compliant Amendment was mailed in error, and thus, an additional period of adjustment of 168 days should be entered for the Office taking in excess of

[1] PALM records indicate that the Issue Fee was also received on April 24, 2008.

four months to mail a Notice of Allowance in response to the amendment filed April 9, 2007.

Applicants' arguments have been considered, but not found persuasive. The entry of a period of reduction of 120 days for filing a further response on August 7, 2007, as required by the Notice of Non-compliant Amendment, is warranted. 37 C.F.R. §1.704(c)(7) provides that:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

The record supports a conclusion that the response filed April 9, 2007 did contain an omission within the meaning of 37 CFR 1.704(c)(7)(and 37 CFR 1.135(c)) for which entry of a period of reduction is warranted. Applicant failed to engage in reasonable efforts to conclude examination of this application by filing an amendment that included a meaningless symbol (described properly by the examiner as a box-shaped character enclosing nothing). The Notice of Non-compliant Amendment was not mailed in error. Further, acknowledging the omission without objection, Applicant filed the amendment on August 7, 2007 to correct claim 121 to include a Greek letter. This constituted applicant delay within the meaning of 37 CFR 1.704(c)(7). Thus, the period of reduction of 120 days was properly entered.

In view thereof, the initial determination of patent term adjustment at the time of the mailing of the notice of allowance is FOUR HUNDRED TWENTY-SEVEN **(427)** days will not be changed.

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

The Office of Data Management has been advised of this decision. The application is being retained in the Office of Petitions for consideration of the rule 78(a)(3) petition and request for certificate of correction also filed April 24, 2008. After decision on these petitions, the application will be 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 if applicable, for the Office taking in excess of three years to issue 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

OCT 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Gregory Paul Winter et al.	:	
Application No. 10/290,233	:	DECISION ON PETITION
Filed: November 8, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BJS-620-225	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 24, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed PCT 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 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective, because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an

amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Petitioner should note that any similar petitions filed under 37 CFR 1.78(a)(3) in related applications with the same incorporation by reference statement will be likewise flawed. Moreover, no petition under 37 CFR 1.78(a)(3) may be granted in the instant application until the benefit claims are corrected in the related application.

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

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

By hand: Customer 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 Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,603,440	:	DECISION ON REQUEST
Grabowski, et al.	:	FOR
Issue Date: October 13, 2009	:	RECONSIDERATION OF
Application No. 10/290,240	:	PATENT TERM ADJUSTMENT
Filed: November 8, 2002	:	and
Atty. Docket No.24825-0006001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 14, 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, one hundred and fifty-five (1,155) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and eighty-one (1,281) days[1] 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

[1] The period of overlap between the "A" delay and the "B" delay is 65 days, not 190 days as patentees calculate. It is noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. A review of the record reveals that the periods of "A" delay that overlap the period of "B" delay began March 13, 2006, and ended February 10, 2008—a total of 65 days. Thus, the period of "A" delay that overlaps the period of "B" delay is 65 days, not 190 days.

begins on November 9, 2005, and ends on February 10, 2008, the day before the RCE was filed, and is 824 days. See 35 U.S.C. 154(b)(1)(B)(i).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 one thousand, two hundred and eighty-one (1,281) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,603,440 B1

DATED : Oct. 13, 2009

INVENTOR(S) : Grabowski, 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 (646) days

Delete the phrase "by 646 days" and insert – by 1,281 days--

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Commissioner for Patents
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MAY 20 2010

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis MN 55440-1022

In re Patent No. 7,603,440	:	DECISION ON REQUEST
Grabowski, et al.	:	FOR
Issue Date: October 13, 2009	:	RECONSIDERATION OF
Application No. 10/290,240	:	PATENT TERM ADJUSTMENT
Filed: November 8, 2002	:	and
Atty. Docket No.24825-0006001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 14, 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, one hundred and fifty-five (1,155) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and eighty-one (1,281) days[1] 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 9, 2005, and ends on February 10, 2008, the

[1] The period of overlap between the "A" delay and the "B" delay is 65 days, not 190 days as patentees calculate. It is noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. A review of the record reveals that the periods of "A" delay that overlap the period of "B" delay began March 13, 2006, and ended February 10, 2008—a total of 65 days. Thus, the period of "A" delay that overlaps the period of "B" delay is 65 days, not 190 days.

day before the RCE was filed, and is 824 days. See 35 U.S.C. 154(b)(1)(B)(i).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 one thousand, two hundred and eighty-one (1,281) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,603,440 B1

DATED : Oct. 13, 2009

INVENTOR(S) : Grabowski, 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 (646) days

Delete the phrase "by 646 days" and insert – by 1,281 days--

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Paper No.

NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203-1808

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AUG 29 2006
OFFICE OF PETITIONS

In re Application of :
Winter et al. : DECISION ON PETITION
Application No. 10/290,252 :
Filed: November 8, 2002 :
Attorney Docket No. 620-226 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION (MPEP 711.03(c)II and 37 CFR § 1.181," filed June 9, 2006.

The petition under 37 CFR § 1.181 is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f).

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed June 30, 2005. No reply having been received, the above-identified application became abandoned on October 1, 2005. A courtesy Notice of Abandonment was mailed on May 30, 2006.

In response, applicant filed the instant petition, asserting that the Notice was first received on June 2, 2006 with the Notice of Abandonment dated May 30, 2006.

A review of the application file reveals no irregularities in the mailing of the Office action mailed June 30, 2005. There is no basis in the Official record of the application for concluding that the Notices were mailed any other day than June 30, 2005. Petitioner's PAIR evidence has been considered, but

has not been found to contravene the evidence of record that the Notice of Allowance was mailed on June 30, 2005. The PALM records for this application consistent with the transaction history in PAIR show that the Notice of Allowance was mailed on June 30, 2005. Given this evidence, the absence of a copy of the mailed Notice of Allowance in the IFW is not persuasive that the Notice was not mailed.

In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome the presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. As stated in the attachment to the Notice of Abandonment, the showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner states that a copy of the undersigned's firm's docket book from September 30, 2005, where the Notice of Allowance of June 30, 2005 would have been docketed had it been received is attached, and such a record is in fact attached. However, petitioner does not include a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

On request for reconsideration, petitioner may submit such a statement by the practitioner.

Alternatively, applicants may submit a petition to revive pursuant to 37 CFR § 1.137(a) or § 1.137(b).

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203-1808

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FEB 08 2007

OFFICE OF PETITIONS

In re Application of :
Winter et al. : DECISION ON PETITION
Application No. 10/290,252 :
Filed: November 8, 2002 :
Attorney Docket No. 620-226 :

This is a decision on the REQUEST FOR RECONSIDERATION, filed October 2, 2006, requesting reconsideration of the decision dismissing the petition to withdraw the holding of abandonment filed June 9, 2006.

The above-identified application became abandoned effective October 1, 2005 for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed June 30, 2005. A courtesy Notice of Abandonment was mailed on May 30, 2006.

In response, applicant filed the instant petition, asserting that the Notice was first received on June 2, 2006 with the Notice of Abandonment dated May 30, 2006.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The initial petition was dismissed because petitioner did not include a statement from the practitioner attesting to the fact

that a search of the file jacket and docket records indicates that the Office communication was not received.

On request for reconsideration, petitioner provided the statement.

In view thereof, the notice of abandonment mailed May 30, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1636 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the Notice of Allowance and Fee(s) Due mailed June 30, 2005 (and the Notice of Allowability) and for restarting of the period for reply to these Notices.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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AUG 03 2007
OFFICE OF PETITIONS

In re Patent No. 6,955,190 :
Issue Date: October 18, 2005 :
Application No. 10/290,261 : NOTICE
Filed: November 8, 2002 :
Attorney Docket No. C-19 :

This is a notice regarding your request, filed November 7, 2006, 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 file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Masami Murai	:	
Application No. 10/290,281	:	DECISION ON PETITION
Filed: November 8, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1089.0310003/ALS	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 22, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received within sufficient time to avert the issuance of the above-identified application into a patent. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $770 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

The Information Disclosure Statement has been scanned into the file of the above-identified application but will not be given any consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The patented file is being forwarded to Files Repository.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 22, 2009

TO SPE OF : ART UNIT 1794 - SPE Carol D. Chaney.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/290,292 Patent No.: 7,033,652 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)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

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: _____

Carol D. Kelly SPE 1795

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DICKSTEIN SHAPIRO MORIN & OSHINSKY
2101 L STREET NW
WASHINGTON, DC 20037-1526

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MAR 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
R. Jacob Baker :
Application No. 10/290,297 :
Filed: November 8, 2002 :
Attorney Docket No. M4065.0451/P451-A :

This is a decision on the petition, filed October 16, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 2824 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
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FROM DIRECTORS OFFICE

NOV 17 2004

TECHNOLOGY CENTER 3600

James C. Wray
Suite 300
1493 Chain Bridge Road
McLean, VA 22101

In re application of
Amos Grushka,
Application No. 10/290,301
Filed: November 08, 2002
For: PORTABLE PERSONAL HEALTH INFORMATION PACKAGE

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on May 24, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Grushka is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 10/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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AUG 0 6 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Masami Murai	:
Application No. 10/290,324	:
Filed: November 8, 2002	:
Attorney Docket No. 1089.0310004	:

This is a decision on the petition, filed July 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This application issued into Patent No. 6,767,086 on July 27, 2004.

The petition is **DISMISSED as moot.**

Unfortunately, the petition reached the appropriate official for decision after the patent issued on the above-identified application. The inconvenience caused petitioner in this matter is sincerely regretted.

The Request for Continued Examination (RCE) submitted with the petition is not effective and will not be entered since the petition to withdraw from issue is dismissed. Therefore, the filing fee of the RCE will be credited to deposit account no. 19-0036 as authorized.

Petitioner is reminded that petitions to withdraw from issue should either be faxed to the Office of Petitions at (703) 305-4257 or hand carried to Crystal Plaza 4, Suite 3C23.

Petitioner's attention is also directed to 37 CFR 1.313(d), which states: A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue."

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

This patented file is being referred to Files Repository.

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
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAN 20 2004

Paper No. 8

In re Application of
Jae-Young Ryu *et al*
Application No. 10/290,326
Filed: November 8, 2002
Attorney Docket No. P56788

: DECISION ON PETITION

This is a decision on the petition filed on December 10, 2003 by which petitioners request supervisory review of the examiner's requirement set forth in the Office action dated December 2, 2003 regarding the labeling of certain drawing figures in petitioners' application as being "prior art.". The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

The record shows that on December 2, 2003, the examiner promulgated an Office action in which petitioners' election of a single invention for prosecution in this application was acknowledged, the elected claims were examined for patentability, and certain objections to the specification and drawings were made. In reply, petitioners' have filed the instant petition. It is noted that pursuant to 37 CFR 1.181(f), the mere filing of the instant petition will not stay the period for reply that is running against the application. Thus, a reply to the merits of all of the matters raised in the examiner's action is still due, and the period for filing such reply continues to run as set in the Office letter dated December 2, 2003.

Pursuant to 37 CFR 1.181(c), the petition is deemed to be premature. That is, there has been no proper request for reconsideration of the examiner's position pursuant to 37 CFR 1.111, and no repeated action by the examiner. Rather than decide the petition at this time based solely upon the arguments presented by petitioners without benefit of the examiner's analysis of those arguments and response thereto, it is deemed to be more appropriate for the record to reflect the examiner's reconsideration of his position vis-a-vis the requirement for labeling drawing Figures 1 and 2 as prior art in light of the comments and authorities advanced in the petition. If the examiner adheres to his position, then the undersigned would have the benefit of "both sides of the story" if petitioner elects to file a petition requesting relief.

Accordingly, the petition is being remanded to the examiner for treatment as a request for reconsideration of the requirement for labeling Figures 1 and 2 as prior art. The examiner will, when reconsidering the requirement, take note of all of the arguments raised by petitioners, including the copies of prior decisions on petitions. Prosecution will not, however, be conducted in piecemeal fashion, and the examiner's position on reconsideration will be set forth as part of the examiner's response to petitioners' complete response to the outstanding Office action, if any is in fact filed.

The application is being returned to the examiner to note this decision, and can thereafter be returned to storage in the Technology Center 3700 Central Files awaiting a complete reply to the Office action dated December 2, 2003.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Robert E. Bushnell
1522 K Street, N.W.
Suite 300
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Akifumi Ueno et al
Application No. 10/290,337
Filed: November 8, 2002
Attorney Docket No. 230314US3

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed January 26, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1754 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sept. 24, 2008

TO SPE OF : ART UNIT 1753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/290357 Patent No.: 7108837

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: I approve all the corrections made in the Certificate Of Corrections dated 8 June 2007. Some of the indicated line in column little off but is clear, e.g. column 5, line 38. -Exr. Kishor Mayekar

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Maunder, et al.	:	LETTER REGARDING PTA
Application No. 10/290,375	:	
Filed: November 8, 2002	:	
Atty. Dkt. No.: 8719.0146-01	:	

This letter is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT," filed August 22, 2006. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed May 23, 2006 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 258 days. Applicants, however, indicate that the correct adjustment is 181 days and request a review of the calculation.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 181 days, as indicated by applicants.

An adjustment of 270 days in accordance with 37 CFR 1.702(a)(1) and 1.702(a)(1) can be attributed to the Office connection with the restriction requirement mailed October 4, 2004.

The Office errantly entered an adjustment of 77 days under 37 CFR 1.702(a)(2) in connection with the mailing of the Notice of Allowance on May 23, 2006. A review of the record reveals that the Notice of Allowance was mailed within four months of the date that the reply to the final Office action was submitted, the reply placing the application in condition for allowance having been submitted May 8, 2006.

The adjustment is properly reduced 89 days for applicants' failure to engage in reasonable efforts to conclude prosecution. Specifically, a reduction of 28 days is attributed to applicants in connection with the reply submitted April 14, 2005 and a reduction of 61 days can be attributed to applicants in connection with the reply submitted November 7, 2005.

Accordingly, at the time of allowance, the application is entitled to an adjustment 181 days, as indicated by applicants.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

PALM INTRANET

Day : Friday
Date: 3/2/2007
Time: 10:00:39

PTA Calculations for Application: 10/290375

Application Filing Date:	11/08/2002	PTO Delay (PTO):	347
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	89
Post-Issue Petitions:	0	Total PTA (days):	181
PTO Delay Adjustment:	-77		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	03/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		77	
47	05/23/2006	MAIL NOTICE OF ALLOWANCE	77		34
46	05/15/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	05/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
44	05/15/2006	NOTICE OF ALLOWABILITY			
43	05/15/2006	ISSUE REVISION COMPLETED			
42	05/01/2003	CORRECTED FILING RECEIPT			
41	05/08/2006	CERTIFIED TRANSLATION OF SPECIFICATION FILED			
40	05/12/2006	DATE FORWARDED TO EXAMINER			
39	05/08/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
38	05/08/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	04/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
34	11/07/2005	NOTICE OF APPEAL FILED		61	31
33	11/07/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	10/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	06/07/2005	MAIL FINAL REJECTION (PTOL - 326)			
30	06/06/2005	FINAL REJECTION			
29	05/13/2005	DATE FORWARDED TO EXAMINER			
28	04/14/2005	RESPONSE AFTER NON-FINAL ACTION		28	26
27	04/14/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	12/17/2004	MAIL NON-FINAL REJECTION			
25	12/15/2004	NON-FINAL REJECTION			

24	11/12/2004	DATE FORWARDED TO EXAMINER			
23	11/04/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
22	11/04/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	10/04/2004	MAIL RESTRICTION REQUIREMENT	270		-1
20	10/01/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
19	05/18/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
18	05/18/2004	PRELIMINARY AMENDMENT			
17	05/18/2004	WORKFLOW INCOMING AMENDMENT IFW			
16	04/02/2004	PRELIMINARY AMENDMENT			
15	04/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
14	11/06/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	04/11/2003	REFERENCE CAPTURE ON IDS			
12	06/20/2003	PRELIMINARY AMENDMENT			
11	04/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/23/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	06/03/2003	TRANSFER INQUIRY TO GAU			
8	02/12/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	11/08/2002	PRELIMINARY AMENDMENT			
6	12/16/2002	APPLICATION DISPATCHED FROM OIPE			
5	12/13/2002	APPLICATION IS NOW COMPLETE			
2	11/15/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/08/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 7

Thomas M. Freiburger
25th Fl.
650 California Street
San Francisco, CA 94108

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OFFICE OF PETITIONS

In re Application of :
Goodrich et al. :
Application No. 10/290,379 :
Filed: November 6, 2002 : ON PETITION
Attorney Docket Number: 637P :

This is a decision in response to the petition under 37 CFR 1.137(a), filed June 14, 2004, to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed December 24, 2002. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on January 25, 2003. A Notice of Abandonment was mailed on June 1, 2004.

Applicant files the instant petition and copies of Submission of New Drawings. Applicant avers that the Submission of New Drawings was timely filed in the Office on February 18, 2003. A review of the Submission of New Drawings reveals that Applicant included a Certificate of Mailing dated February 18, 2003, certifying that the drawings were filed on February 18, 2003.

Under 37 CFR 1.8,

> "correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to the expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

37 CFR 1.8.

In view of the above, the abandonment and holding of abandonment of the above-identified application are hereby withdrawn. A refund of the petition fee, $55.00, has been scheduled.

The application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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JJGJR.: 08-06

Paper No: __

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CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

In re Application of	:	
Woodle, et al.	:	
Application No. 10/290,406	:	DECISION
Filing Date: 6 November, 2002	:	
Attorney Docket No.: 4-31296A	:	

This is a decision on the petition filed on 2 August, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner does not appear to have been Counsel of Record at the time Petitioner avers the instant application went abandoned, and, therefore, cannot attest to the nature of the abandonment, whether unintentional or otherwise. Statements to this effect can be made only by the Applicant(s), Assignee at the time of abandonment and/or Counsel of Record at the time of abandonmemnt.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 28 September, 2005, with reply due absent extension of time on or before 28 October, 2005;
- the application went abandoned by operation of law on 28 October, 2005;
- the Office mailed the Notice of Abandonment on 24 April, 2006;
- on 2 August, 2006, Petitioner filed the instant petition with fee authorization, and electoin as the reply and made the statement of unintentional delay–however, it does not appear from the record through either the listing of Counsel on the customer number or on the oath/declaration that Petitioner was empowered or was Counsel of Record at the time the application went abandoned and therefore is not in a position to make the statement of unintentional delay, and this must be made by the applicant(s), assignee(s) or Counsel of Record at the time the application went abandoned.

Petitioners always are reminded of the burden of those registered to practice *and* all others who make representations before the Office, *inter alia*, to inquire into the underlying facts of representations made to the Office.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is

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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.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

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 not to be able to make the statement of unintentional delay and thus cannot as of this writing satisfy the requirements under the regulation.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

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[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[10]) 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

[10] 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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EAST HANOVER, NJ 07936-1080

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OFFICE OF PETITIONS

In re Application of	:	
Martin C. Woodle et al	:	
Application No. 10/290,406	:	ON PETITION
Filed: November 6, 2002	:	
Attorney Docket No. 4-31296A	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action (Restriction Requirement) mailed September 28, 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) were obtained. Accordingly, the application became abandoned on October 29, 2005. A Notice of Abandonment was mailed on April 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an election, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Restriction Requirement of September 28, 2005 is accepted as being unintentionally delayed.

The petition of August 1, 2006 and the renewed petition under 37 CFR 1.137(b) were accompanied by extension of time fees of $2,160, as well as a duplicate petition fee of $1,500. 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 $4,320 extension of time fees submitted with the petition on August 2, 2006 and October 27, 2006 were subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account. Additionally,

as the $1,500 fee of the petition under 37 CFR 1.137(b) was previously paid on August 2, 2006, the duplicate fee received on October 27, 2006 will also be credited to petitioner's deposit account.

This application is being referred to Technology Center AU 1635 for appropriate action in the normal course of business on the reply received to the Restriction Requirement of September 28, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Yohong Zhou, Roy Levitt, Nicholas Nicolaides, Steve Jones and Mike McLane	:	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)
Application No.10/290,443	:	
Filed: November 8, 2002	:	
Attorney Docket No. 034519-0119	:	
Title of Invention: Mucin Synthesis Inhibitors	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 30, 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. The petition attest a copy of the application was sent to non-signing inventor's last known address. Sufficient evidence has been presented to establish that non-signing inventor refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (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

Steve Jones
2762 Narcissa Road
Plymouth Meeting, PA 19462

In re Application of
Yohong Zhou, Roy Levitt, Nicholas Nicolaides,
Steve Jones and Mike McLane
Application No.10/290,443
Filed: November 8, 2002
Attorney Docket No. 034519-0119
Title of Invention: Mucin Synthesis Inhibitors

LETTER

COPY MAILED
APR 20 2005
OFFICE OF PETITIONS

Dear Mr. Jones:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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3000 K STREET NW, SUITE 500
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of	:
Srinivasan Palaniappan et al	:
Application No. 10/290,458	: DECISION ON PETITION
Filed: November 8, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 056859-0159	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/896,935, filed June 29, 2001.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, 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 above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). Additionally, the petition is accompanied by the surcharge required by 37 CFR 1.17(t) and a proper statement of unintentional delay in accordance with 37 CFR 1.78(a)(3). 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 above-noted, 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 above-noted, prior-filed application. In order for the instant application to be entitled to the benefit of the above-noted, 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 above-noted, prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the above-noted, 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 above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

This application is being forwarded to Technology Center Art Unit for appropriate action on the amendment filed October 29, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/896,935, filed June 29, 2001.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
HOFFMAN, Klaus :
Application No. 10/290,465 :
Filed: November 8, 2002 :
Attorney Docket No. **118744-089** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on September 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application of	:	
Stefano M. Faccin, et al.	:	
Application No. 10/290,490	:	DECISION ON PETITION
Filed: November 8, 2002	:	TO WITHDRAW
Attorney Docket No. 061715-0330	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed July 10, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley & Lardner, LLP has been revoked by the assignee of the patent application on August 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CONNOLLY, BOVE LODGE & HUTZ, LLP
1990 M STREET NW
SUITE 800
WASHINGTON, DC 20036-3425

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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
10/290,490	11/08/2002	Stefano M. Faccin	088245-0164

CONFIRMATION NO. 3486

POA ACCEPTANCE LETTER

23524
FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

OC000000027683541

Date Mailed: 01/14/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/14/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/290,490	11/08/2002	Stefano M. Faccin	061715-0330

CONFIRMATION NO. 3486

POWER OF ATTORNEY NOTICE

30542
FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

OC000000027683540

Date Mailed: 01/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/14/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Patent No. 7,489,667	:	
Faccin et al.	:	DECISION ON
Issue Date: February 10, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/290,490	:	OF
Filed: November 8, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-0164	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R.§1.705(d)," filed March 2, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one thousand and eighteen(1,018) days to one thousand six hundred eighty-eight(1,688) days. The instant patent issued in the name of Spyder Navigations, L.L.C. and the instant request for reconsideration is filed by an attorney of record on their behalf.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 1,018 days.

On February 10, 2009, the above-identified application matured into U.S. Patent No. 7,489,667 with a patent term adjustment of 1,018 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant

to *Wyeth*, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 819 of the 1,190 days, and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 1,041 days do not overlap as these periods do not occur on the same day.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 1,190 days. This 1,190 day period is calculated based on the application having been filed under 35 U.S.C. §111 on November 8, 2002, and the patent having not issued until February 10, 2009, three years and 1,190 days later. Patentees assert that in addition to this 1,190 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a) of 1,041 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 patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 172 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (1,190 days) and the period of Examination Delay (1,041 days) to the extent that these periods of delay are not overlapping.

Patentees contend that 371 days of the period of delay of 1,041 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 9, 2003 to November 14, 2006) overlap with the Three Year Delay period (November 9, 2005 to February 10, 2009). Patentees assert that this overlapping period is the 371 days running from November 9, 2005 to November 14, 2006.

Accordingly, patentees submit that the total period of Office Delay is 1,860 days, which is the sum of the period of Three Year Delay (1,190 days) and the period of Examination Delay (1,041 days), reduced by the period of overlap (371 days).

As such, patentees assert entitlement to a patent term adjustment of 1,688 days (1,190 +1,041 reduced by 371 overlap - 172 for applicant delay).

The Office agrees that the patent issued 3 years and 1,190 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 1,041 days is correct. At issue is whether patentees should accrue 819 (adjusted for overlap, per patentees' calculations) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 1,041 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that all 1,041 days overlap with the 1,190 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. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for

periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on November 9, 2005, the date that is 3 years after the actual filing date of the application is incorrect.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, November 8, 2002 to February 10, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 1,041 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 1,041 days overlap with the 1,190 days for Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 1,190 days, not 1,041 + 819 days. The Office took 14 months and 1,041 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1,041 days of Office delay and the time allowed within the timeframes for processing and examination, and applicant delays, the patent issued, three years and 1,190 days after its filing date. The period of delay of 1,190 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1,041 days attributable to ground specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered 149 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent for a total of 1,190 days of Office delay.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 1,018 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

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,489,667	:	DECISION ON REQUEST
Faccin, et al.	:	FOR RECONSIDERATION OF
Issue Date: February 10, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/290,490	:	AND
Filed: November 8, 2002	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. 088245-0164	:	CERTIFICATE OF CORRECTION

This is a decision on the reconsideration petition filed on July 7, 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 six hundred eighty-eight (1,688) 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 six hundred eighty-eight (1,688) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand six hundred eighty-eight (1,688) days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,489,667 B2

DATED : February 10, 2009

INVENTOR(S) : Stefano M. Faccin, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1,018) days

Delete the phrase "by 1,018 days" and insert – by 1,688 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. 6

Frank A. Spear
10264 Champions Court
Ijamsville MD 21754

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MAR 13 2003

OFFICE OF PETITIONS

In re Application of
Siddiqi
Application No. 10/290,514
Filed: January 27, 2003
Attorney Docket No. CIP2Siddiqi
For: APPARATUS AND METHOD FOR PROCESSING MAGNETIC PARTICLES

DECISION ON PETITION

This is a decision on the petition entitled, "PETITION TO GRANT FILING DATE OF 11-08-02 BEFORE THE HONORABLE OFFICE OF PETITIONS," filed January 27, 2003. The petition will be treated under 37 CFR 1.53 and 37 CFR 1.182.

The petition under 37 CFR 1.53(e) to accord a November 8, 2002 filing date to the above-identified application is **DISMISSED**.

The petition under 37 CFR 1.182 to accord a January 27, 2003 filing date to the above-identified application is **GRANTED**.

The application was deposited on November 8, 2002. On January 9, 2003, the Office of Initial Patent Examination (OIPE) mailed a " Notice of Incomplete Nonprovisional Application" informing petitioner that no filing date had been accorded to the above-identified application because the application was deposited without drawings.[1]

In response to the Notice, petitioner timely filed the present petition on January 27, 2003. Petitioner requests a November 8, 2002 filing date for the application on the basis that the allegedly omitted drawings were received in the Patent and Trademark Office (PTO) on November 8, 2002.

---

[1] This application contains process claims. As such, OIPE should have mailed a "Notice of Omitted Items in a Nonprovisional Application" and accorded a November 8, 2002 filing date to the application papers filed on that day. Despite OIPE's error, the following analysis is valid because petitioner implies that the first 10 pages of drawings are necessary for the understanding of the invention. If any drawings are necessary, the November 8, 2002 filing date could not be maintained because, as will be discussed later, petitioner has not proved any drawings were filed on November 8, 2002.

In support, the petition is accompanied by a copy of applicant's postcard receipt showing an Office of Initial Patent Examination date stamp listing November 8, 2002 as the date of receipt and a statement from the attorney of record that he recalls the drawings as being part of the application papers filed on November 8, 2002. In addition, petitioner argues that because the above-identified application is a CIP of parent U.S. Patent No. 6,033,574 and the first ten sheets of drawings in the instant application are essentially the same as those in the parent, the drawings were present in the PTO on November 8, 2002. Finally, petitioner argues that the PTO employee looking at the application should have told him something was missing and it could have easily been corrected.

The statements by counsel and state without equivocation or doubt that the application included the drawings.

The Office file is the official record of what was filed on November 8, 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 filed are no more persuasive of what was actually filed than the contents of the official record. Such statements, as in this case, are usually made months after the actual events recited. In this case, the petition supplied on January 23, 2003, recites routine events and was created roughly 2 ½ months after the application was actually filed.

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).

To reiterate, 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 return postcard in this case states 63 pages of specification were received. The postcard does not mention there were any drawings. The postcard receipt cannot be relied upon to prove 19 sheets of drawings were received.

Petitioner asserts that the initial reviewer had several bases for verifying what was filed. Petitioner is informed that initial reviewers do not search Office records for related applications or examine new filings for internal consistency. Instead, they compare/contrast the application papers before them to the postcard receipt. The postcard receipt in this case did not identify any

sheets of drawings. Therefore, nothing was amiss to the initial reviewer when no drawings were among the application papers.

Regarding petitioner's incorporation by reference argument, petitioner is reminded that the first page of the utility transmittal letter states that only continuation of divisional applications can rely on incorporation by reference. CIPs are not included. Furthermore, the mere reference in an application to another application is not an incorporation of anything contained in the other application into the referencing application. See In re Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973) and Dart Industries, Inc. v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

For the reasons stated above, the petition under 37 CFR 1.53(e) is dismissed.

Petitioner filed 19 sheets of drawings and a supplemental declaration on January 27, 2003. The present petition requests that if the petition to accord a November 8, 2002 filing date is dismissed, that the above-identified application be accorded a filing date as of the date of deposit of the items noted as omitted in the Notice mailed January 9, 2003.

The petition under 37 CFR 1.182 to accord a filing date of January 27, 2003 is granted.

Petitioner submitted two $130.00 petition fees on January 27, 2003. Pursuant to petitioner's authorization, one of the fees will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **January 27, 2003**. The Office of Initial Patent Examination will mail a filing receipt 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
Alexandria, VA 22313-1450
www.uspto.gov

Frank A. Spear
10264 Champions Court
Ijamsville MD 21754

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SEP 14 2004

OFFICE OF PETITIONS

In re Application of
Siddiqi
Application No. 10/290,514
Filed: November 8, 2002
Attorney Docket No. CIP2Siddiqi
For: APPARATUS AND METHOD FOR PROCESSING MAGNETIC PARTICLES

DECISION ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed on March 21, 2003.

The reconsideration petition under 37 CFR 1.53(e) to accord a November 8, 2002 filing date to the above-identified application is **GRANTED**.

The application was deposited on November 8, 2002. On January 9, 2003, the Office of Initial Patent Examination (OIPE) mailed a " Notice of Incomplete Nonprovisional Application" informing petitioner that no filing date had been accorded to the above-identified application because the application was deposited without drawings.

While OIPE should have sent out a Notice of Omitted Items and accorded a filing date, petitioner implied in his first petition filed on January 27, 2003 that the first 10 pages of drawings were necessary for the understanding of the invention.[1] In addition, petitioner requested a November 8, 2002 filing date for the application on the basis (1) that the allegedly omitted drawings were received in the Patent and Trademark Office (PTO) on November 8, 2002 and (2) that because the above-identified application is a CIP of parent U.S. Patent No. 6, 033,574 and the first ten sheets of drawings in the instant application are essentially the same as those in the parent, the drawings were present in the PTO on November 8, 2002. If the petition was dismissed, petitioner requested that the PTO accord the application a filing date as of the date of receipt of the omitted drawings.

The petition to accord a November 8, 2002 filing date with the drawings as part of the application was dismissed on March 13, 2003 because petitioner did not prove the missing 19 sheets of drawings were filed with the application papers on November 8, 2002 and petitioner did

[1] If the first 10 pages of drawings were required, petitioner would not have been able to sustain a November 8, 2002 filing date because petitioner did not prove that any drawings were filed on November 8, 2002. This is explained in the March 13, 2003 decision on petition.

not incorporate by reference the contents of the prior application. In the same decision, the PTO accorded the application a filing date as of the date of receipt of the omitted drawings, or January 27, 2003, as petitioner requested.

Now petitioner asserts that the drawings are not necessary for the understanding of the invention and desires a November 8, 2002 filing date for the application.

It is noted that the above-identified application contains process claims. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

> A non provisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains process claims. Therefore, the above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date. Petitioner states that drawings are not required for the understanding of the invention. Therefore, the above-identified application can be accorded a filing date of November 8, 2002 without drawing figures.

The reconsideration petition under 37 CFR 1.53(e) to accord a filing date of November 8, 2002 is granted.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **November 8, 2002**. The 19 sheets of drawings submitted on January 27, 2003 will not be processed and will not be considered part of the original application papers. The Office of Initial Patent Examination will mail a filing receipt 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
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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MAY 2 4 2004

OFFICE OF PETITIONS

In re Application of
Gudesen et al.
Application No. 10/290,524
Filed: November 8, 2002
Attorney Docket No. 3672-0151P

DECISION GRANTING PETITION

This is a decision on the "PETITION FOR PATENT TO ISSUE TO ASSIGNEE (37 C.F.R. § 3.81(b))," filed April 2, 2004.

Petitioner requests that the patent be issued solely to the below-named assignee of the entire right, title and interest:

THIN FILM ELECTRONICS ASA

Petitioner states that the late assignment was submitted for recording on March 16, 2004, and has been duly recorded in the above-identified application (Reel/Frame 014434/0896). This was after payment of the Issue Fee on February 25, 2004, but before issuance of the Patent. The petition includes payment of the processing fee.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

10/290524

OIPE JC98 MAR 30 2005 PATENT & TRADEMARK OFFICE

PATENT
3672-0151P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Patentee: Hans Gude Gudesen et al.

Patent No.: 6,833,593 B2

Issue Date: December 21, 2004

Certificate APR 0 4 2005 of Correction

For: ELECTRODE MEANS, A METHOD FOR ITS MANUFACTURE, AN APPARATUS COMPRISING THE ELECTRODE MEANS AS WELL AS USE OF THE LATTER

ATTN: CERTIFICATE OF CORRECTIONS BRANCH

REQUEST FOR CERTIFICATE OF
CORRECTION UNDER 37 C.F.R. § 1.323

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

March 30, 2005

Sir:

Attached hereto is a Certificate of Correction (Form PTO-1050) in connection with the above-identified patent.

It is noted that the attached Certificate of Correction form is being filed to correct grammatical errors in the specification. Modified Figures 11a-11d are submitted herewith to enhance consistency with the specification. These errors occurred in good faith, do not involve new matter, and should not require a re-examination.

The fee under 37 C.F.R. § 1.20(a) of $100.00 is attached hereto.

Please charge any fees or credit any overpayment pursuant to 37 C.F.R. § 1.20 to Deposit Account No. 02-2448.

Respectfully submitted,

03/31/2005 SLUANG1 00000002 6833593
01 FC:1811 100.00 OP

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By #39,491
K. Michael K. Mutter, #29,680

HNS
MKM/HNS/jao
3672-0151P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

APR 4 2005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/18/05

Paper No.: _____

TO SPE OF : ART UNIT 2826 (Flynn)

SUBJECT : Request for Certificate of Correction on Patent No.: 6833593 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE _____ **Art Unit** 2826

UNITED STATES 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 : November 6, 2006

Patent No. :6,884,074
Inventor(s) :Wolfgang Theilmann
Issued :April 26, 2005
Title :DYNAMIC COMPOSITION OF RESTRICTED E-LEARNING COURSES
Doc./File No.:13909-037001

Consideration has been given your request for the issuance of a certificate of correction for the above identified patent.

Accordingly, applicants' proposed request to change data in column 15, line 38 claim 14 from that which is presented in the printed patent has been reviewed and considered unwarranted. The change was the result of an examiners amendment made in accordance with permissible amendments as defined in MPEP 1302.04.

In view of the forgoing your request in this matter is hereby denied. Further correspondence should be directed to Decisions and Certificate of Correction Branch.

Any telephone inquiries concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

Paul A. Pysher
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110

CBN/arg

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JUL 1 8 2005

OFFICE OF PETITIONS

FitzPatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3801

In re Application of
Iwamoto
Application No. 10/290,529
Patent No: 6,891,599 B2
Filed: November 8, 2002
Attorney Docket No. 03560.003133

: LETTER REGARDING PTA AND
:NOTICE OF INTENT TO ISSUE A
:CERTIFICATE OF CORRECTION

This decision regarding Applicants letter titled "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT' filed on June 09, 2005 requesting that the Office review the PTA calculation to determine its accuracy. The Office thanks applicants for their good faith and candor in bring this matter to the attention of the Office.

Applicants letter is GRANTED. The Office will adjust the PTA calculation at the time of the issuance of the patent to reflect zero (0) days rather than the determined amount of eighty-six (86) days. The Office will also *sua sponte* issue a certificate of correction reflecting this decision.

Applicants are given thirty (30) days to respond to this decision. No additional time will be granted pursuant to 37 CFR 1.136.

Applicants assert that the PTA determination should be reassessed because the Office entered a letter received in the Office on October 13, 2004 as a small entity letter rather than the actual nature of the letter which is a request for a refund.

The office has reviewed the file and applicants' assessment is accurate that the actual paper filed on October 13, 2004 is a request for a refund. Although letters mailed after the notice of allowance concerning small entity status are not considered failures to engage in reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(10), request for refunds have expressly been outlined as a paper that is considered a failure to engage in reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(10). See 1247 Off. Gaz. Pat. Off. 111 (June 26, 2001). Accordingly, the Office should have assessed a one hundred and twenty (120) day penalty under 37 CFR 1.704(c)(10).[1] Overall, the proper amount of PTA is zero (0). The Office had eighty-six days of applicant delay for failing to issue the application within four months of the payment of the issue fee and other requirements being satisfied , however, the eighty-six days of applicant delay are removed because of applicants' delay of 120 days (86-120=0).

[1]Applicant delay began on the day of the submission of the paper (10-13-2004) and ended on the cap amount of 120 days.

After the mailing of this decision, the application will be forwarded to the certificate of correction branch for issuance of a certificate of correction.

Because applicants out of good faith and candor brought the matter to the Office's attention, no fees is required of applicant.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A Fries
per

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Draft of Pair Calculation
Adjusted Pair Calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 11, 2007

TO SPE OF : ART UNIT 2800/2128

SUBJECT : Request for Certificate of Correction for Appl. No. 10/290538 patent no.7194396

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: Correction submitted by the Applicant is due to discrepancies between the Applicant's submitted specification and the USPTO printed Patent. Therefore, the correction is O.K. Chung Lem

KAMINI SHAH
SUPERVISORY PATENT EXAMINER

9/27/07

SPE **Art Unit**

OIPE IAP97
JUN 19 2007
PATENT & TRADEMARK OFFICE

Attorney Docket No. 392.1768

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Atsushi WATANABE, et al.

Application No.: 10/290,538

Confirmation No.: 1337

Filed: November 8, 2002

U.S. Patent No.: 7,194,396

Issued: March 20, 2007

For: SIMULATION DEVICE

ATTENTION

CERTIFICATE OF CORRECTION

BRANCH

Certificate
JUN 21 2007
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Patentee respectfully requests that a Certificate of Correction be issued in the subject patent, pursuant to 35 USC § 254 and 37 CFR § 1.322, to correct the errors shown on the attached Form PTO-1050. A check in the amount of $100 to cover the cost of the Certificate is attached.

One or more of the errors shown on the attached Form PTO-1050 is or are within the responsibility of the applicant; each thereof is of a clerical or typographical nature or of minor character and occurred in good faith, and the correction thereof is consistent with the prosecution record.

Respectfully submitted,

STAAS & HALSEY LLP

06/20/2007 JADDO1 00000027 7194396
01 FC:1811 100.00 OP

Date: June 18, 2007

By: _____
H. J. Staas
Registration No. 22,010

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

JUN 21 2007

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,194,396

DATED : March 20, 2007

INVENTOR(S) : Atsushi WATANABE, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Page 2, Column 1 (Other Publications), Line 2, change "Scheduleing" to --Scheduling--.

In the drawings:

FIG. 5, Box. C2, Line 2, change "LAPASING" to --LAPSING--.

FIG. 5, Box. C17, Line 2, change "IDON" to --ICON--.

FIG. 5, Box. C17, Line 2, change "STOREAGE" to --STORAGE--.

Column 1, Line 31, change "i.c." to --i.e.--.

Column 1, Line 53, change "m" to --in--.

Column 3, Line 7, change "sowing" to --showing--.

Column 3, Line 30, after "from" insert --a--.

Column 3, Line 31, after "disk" insert --,--.

Column 4, Line 7, change "tie" to --the--.

Column 4, Line 16, change "tie" to --the--.

Column 4, Line 27, change "controller." to --controllers--.

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Avenue, N.W.
7th Floor
Washington, DC 20005

2 1 2007

PTO/SB/ 44 (08-00)
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,194,396

DATED : March 20, 2007

INVENTOR(S) : Atsushi WATANABE, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 5, Line 1, after "in" change "a" to --an--.

Column 5, Line 9, after "simulated" insert --,--.

Column 5, Line 12, change "Than," to --Then,--.

Column 5, Line 25, after "execution" insert --steps--.

Column 5, Line 26, before "operation" insert --controller of the robot can be used as the time information in execution of the--.

Column 5, Line 45, after "signal is" insert --captured as a still image of the model of the robot in the midst of the--.

Column 5, Line 53, after "completed" insert --,--.

Column 6, Line 3, change "the," to --the--.

Column 6, Line 39, change "D3)," to --B3),--.

Column 6, Line 60, change "B9.)" to --B9).--.

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Avenue, N.W.
7th Floor
Washington, DC 20005

JUN 2 1 2007

PTO/SB/ 44 (08-00)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,194,396

DATED : March 20, 2007

INVENTOR(S) : Atsushi WATANABE, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 7, Line 2, after "simulation" insert --,--.

Column 7, Line 35, change "signal.)" to --signals).--.

Column 7, Line 41, change "devices" to --device,--.

Column 8, Line 56, change "13, in" to --13. In--.

Column 9, Line 8, change "icon;" to --icon,--.

Column 9, Line 9, change "A12," to --A12--.

Column 9, Line 9, change "R12," to --B12,--.

Column 9, Line 17, change "simulation," to --simulation--.

Column 9, Line 50, change "reduceing" to --reducing--.

Column 10, Line 43, change "image" to --images--.

Column 10, Line 46, change "image" to --images--.

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Avenue, N.W.
7th Floor
Washington, DC 20005

JUN 2 1 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Wolf Greenfield & Sacks, PC
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2211

MAILED

JUN 17 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Joseph T. Pych
Application No. 10/290,547 :
Filed: November 8, 2002 :
For: METHOD AND APPARATUS FOR IMPLIED ATTIBUTION OF RESPONSES TO PROMOTIONAL CONTACTS :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 5, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), there is no indication in the file record of the assignee being the "client." Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/dxn: 6/12/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

DEC 18 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Kulaniakea Fisher and Evan Schmutz
Hill, Johnson & Schmutz
3319 North University Avenue
Provo, UT 84604

In re application of :
Lanny Smith :
Application No.10/290,548 :
Filed: November 8, 2002
For: TRACK ASSEMBLY WITH APPARATUS FOR FORMING DECK EDGING FOR SWIMMING POOLS

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 12, 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 September 12, 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.

Summary: Petition to Make Special is **GRANTED**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/cps 12/15/03

DO NOT SEND TO WAREHOUSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/14/05

Paper No.: 3/30/05

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6794854 10/290,549

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.

Should Foreign Priority be added?

Thank You For Your Assistance

R Johnson
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:

Priority document is in parent application, so priority is proper. Previous denial was incorrect.

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2834
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Niloofar Fisher
Shell Oil Company
Legal-Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

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FEB 1 1 2005

OFFICE OF PETITIONS

In re Application of

Liney and March

Application No. 10/290,555

Filed: November 8, 2002

Attorney Docket No. 002484.0234

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed May 12, 2004, which set a shortened statutory period for reply of three (3) months. A proper response to the final Office action was not received within the allowable period. Accordingly, the application became abandoned on August 13, 2004. A Notice of Abandonment was mailed on December 1, 2004.

The Request for Continued Examination filed December 13, 2004, is noted and made of record.

The request for an extension of time within the fourth month is noted, but cannot be granted because the request was made outside the maximum statutory period for reply. The amount of $1,530.00 will be refunded to deposit account 19-1800, in due course.

The application is being forwarded to Technology Center 2800, GAU 2858 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 030304

MAR 4 2004

MORRISS. BATEMAN, O'BRYANT
& COMPAGNI
5882 South 900 East, Suite 300
Salt Lake City, Utah 84121

In re Application of:
MALMSTROM *et al.*
Serial No.: 10/290,557
Filed: November 08, 2002
Attorney Docket No.: **0908.ZEVX.DV**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed November 21, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Frank W. Compagni, on behalf of himself, Julie K. Morriss and David W. O'Bryant. There is no outstanding Office action at this time.

The request is **APPROVED**.

Randall B. Bateman remains of record at this time.

All future communications from the Office will be directed to Randall B. Bateman, 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: Randall B. Bateman
P.O. Box 1319
Salt Lake City UT 84110-1319

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 030304

MAR 4 2004

MORRISS. BATEMAN, O'BRYANT
& COMPAGNI
5882 South 900 East, Suite 300
Salt Lake City, Utah 84121

In re Application of:
MALMSTROM *et al.*
Serial No.: 10/290,557
Filed: November 08, 2002
Attorney Docket No.: 0908.ZEVX.DV

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed November 21, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Frank W. Compagni, on behalf of himself, Julie K. Morriss and David W. O'Bryant. There is no outstanding Office action at this time.

The request is **APPROVED**.

Randall B. Bateman remains of record at this time.

All future communications from the Office will be directed to Randall B. Bateman, 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

BEST AVAILABLE COPY

cc: Randall B. Bateman
P.O. Box 1319
Salt Lake City UT 84110-1319

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Paper No. 7

KEITH L. JENKINS
SCHMEISER, OLSEN & WATTS, LLP
18 EAST UNIVERSITY DRIVE, #101
MESA, AZ 85201

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OFFICE OF PETITIONS

In re Application of
Ellsworth, Mark
Application No. 10/290,567
Filed: November 7, 2002
Attorney Docket No. ELLS-0471

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 12, 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**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 18, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 19, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3752 for examination in due course.

Telephone inquiries concerning this decision should 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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OFFICE OF PETITIONS

QUALCOMM, INC.
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121

In re Application of
Daniel P. Filipovic
Application No. 10/290,577
Filed: November 8, 2002
Attorney Docket No.: 020614

ON PETITION

This is a decision on the petition filed November 10, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 20, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested within the extendable time allowed, this application became abandoned July 21, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on November 10, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 17-0026.

---

[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 2685 for appropriate action on the amendment filed November 10, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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OFFICE OF PETITIONS

In re Application of	:	
Rasmus Rojkjaer	:	
Application No. 10/290,591	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. 6428.200-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on June 22, 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 November 29, 2005. A Notice of Abandonment was mailed on June 12, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $3 for one (1) advance order soft copy.

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

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Paper No.

Mark B. Wilson
Fulbright & Jaworski L.L.P.
Suite 2400
600 Congress Avenue
Austin, TX 78701

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OFFICE OF PETITIONS

In re Application Kaznacheev et al. Application No. 10/290,592 Filed: November 8, 2002 Atty Docket No. SONN:022US	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§1.705(b)," filed December 8, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from twenty-four (24) days to forty (40) 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 forty **(40)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 5, 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 24 days. On December 8, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 16 days attributed to applicants for failing to respond within three months to the Notice to File Missing Parts of Application mailed December 10, 2002. Applicants submit a copy of their date-stamped itemized return postcard to show that the response was filed on March 17, 2003. Thus, applicants request that this delay be changed to 7 days.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The reduction of 16 days has been found to be incorrect. A review of the application file confirms that applicants' response

[1] As of the drafting of this decision, the period for payment of the Issue Fee continued to run.

to the Notice to File Missing Parts of Application mailed December 10, 2002, is of record in the application with a date of receipt by the Office of March 17, 2003. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 23 days. The response was filed outside the three-month period under 37 CFR 1.704(b), but only by 7 days. Accordingly, applicants' delay should have been assessed as seven (7) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is forty (40) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin A Ferriter
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

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OFFICE OF PETITIONS

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO CA 94303

In re Application of

MEENS, et al.

Application No. 10/290,603
Filed: November 8, 2002
Attorney Docket No. ARSI-008CIP

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 31, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Carol M. LaSalle on behalf of all attorneys of record who are associated with customer No. 24353. All attorneys/agents associated with the Customer Number 24353 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The 37 CFR 3.73(b) Statement filed on September 28, 2005 is invalid because it does not include a reel and frame number nor a complete chain of title.

There is an outstanding Office action mailed March 9, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Hendrik Jozef Maria Meens**
Nieuwenbroek 8
Weert, The Netherlands 6002 WH

cc: **David W. Laub**
Proskauer Rose LLP
1001 Pennsylvania Avenue NW, Suite 400 South
Washington, DC 20004-2533

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/290,603	11/08/2002	Hendrik Jozef Maria Meens	ARSI-008CIP

CONFIRMATION NO. 2777

OC000000020641014

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 09/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/31/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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ROSS J OEHLER
AVENTIS PHARMACEUTICALS INC
ROUTE 202-206
MAIL CODE D303A
BRIDGEWATER NJ 08807

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OFFICE OF PETITIONS

In re Application	:
Schiell, et al.	:
Application No. 10/290,607	: DECISION ON APPLICATION
Filed: November 8, 2000	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. DEAV2001/0069	:
US NP	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)", filed December 20, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four (4) days to thirty (30) 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 **thirty (30) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 25, 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 four (4) days. On December 20, 2004, Applicants timely[1] submitted the instant 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 thirty (30) days.

Applicants assert entitlement to a patent term adjustment of thirty (30) days on the basis that the PTO improperly assessed Applicants a delay of fifty-six (56) days for responding to a Notice to File Missing Parts mailed on January 9, 2003. Applicants assert that they filed a complete response on May 9, 2003, and as such should only have been assessed delay of thirty (30) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of four (4) days based on an adjustment for PTO delay of sixty (60) 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 fifty-six (56) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of fifty-six (56) days is at issue.

The adjustment of fifty-six (56) days has been found to be incorrect. A review of the application file reveals that a Notice to File Missing Parts of Nonprovisional Application was mailed on January 9, 2003. Applicants filed a complete response to this notice on May 9, 2003. As this was not timely pursuant to 37 C.F.R. § 1.704(b), applicant delay of thirty (30) days should have been assessed, not fifty-six (56) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **thirty (30) days** (60 days of PTO delay, reduced by 30 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 18-1982, as authorized.

---

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

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.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

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ROSS J OEHLER
AVENTIS PHARMACEUTICALS INC
ROUTE 202-206
MAIL CODE D303A
BRIDGEWATER NJ 08807

In re	: DECISION ON APPLICATION
Schiell, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/290,607	: AND
Filed: November 8, 2002	: NOTICE OF INTENT TO ISSUE
Patent No. 6,962,943	: CERTIFICATE OF CORRECTION
Issued: November 8, 2005	:

This is a decision on the "Combined Request for Reconsideration of Patent Term Adjustment Indicated in the Issue Notification (37 C.F.R. § 1.705) and Statement of the Correct Patent Term Adjustment: Basis(es) Under §1.702 For the Adjustment (37 C.F.R. 1.705(b)(2)(i) and (ii)", filed January 9, 2006. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred six (206) days to two hundred thirty two (232) days.

The application for patent term adjustment 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 **two hundred thirty-two (232)** days.

On November 8, 2005, the above-identified application matured into U.S. Patent No. 6,962,943. The instant request for reconsideration filed January 9, 2006 was timely filed within two months of the date the patent issued. See § 1.705(d).

Applicants filed an application for patent term adjustment on December 20, 2004, asserting a patent term adjustment at the time of mailing of the Notice of Allowance of thirty (30) days. The application for patent term adjustment was granted in a decision mailed on September 15, 2005. The Patent issued with a Patent Term Adjustment of two hundred six (206) days, including two hundred two (202) days of PTO delay pursuant to 37 C.F.R. § 1.703(a)(6). Patentees state that the patent term adjustment at the time of issuance should be two hundred thirty-two (232) days, because the prior decision mailed September 15, 2005 was not updated in PAIR.

It is obvious that the PAIR system was not updated to reflect the patent term adjustment accorded in the September 15, 2005 decision. According to the decision, applicants should not have been assessed delay of fifty-six (56) days for responding to a January 9, 2003 Notice to File Missing Parts on May 9, 2003, but rather thirty (30) days.

Given the basis for granting this petition, the $200.00 fee set forth in 37 C.F.R. § 1.18(e) has not been charged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **two hundred thirty-two (232)** 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 Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,962,943 B2

DATED : November 8, 2005

INVENTOR(S) : Schiell, 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 (206) days

Delete the phrase "by 206 days" and insert – by 232 days—

UNITED STATES PATENT AND TRADEMARK OFFICE

7/6/5

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

Alan A. Bornstein
Unilever Intellectual Property Group
700 Sylvan Avenue
Bldg. C2 South
Englewood Cliffs, NJ 07632-3100

Date: July 6, 2005
Application No. 10/290,609
Filed: November 8, 2002
Subject: **LIQUID CLEANSING COMPOSITION HAVING SIMULTANEOUS EXFOLIATING AND MOISTURIZING PROPERTIES**

ON PETITION
37 CFR 1.48

Receipt is acknowledged of the petition filed August 28, 2003 under 37 CFR 1.48(a) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the **addition of SUZANNE LYNN GENCARELLI**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE, M.A., J.D.
SUPERVISORY PATENT EXAMINER

Thurman K. Page

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1615 & ART UNIT 1618(acting)
Remsen 4A81
571-272-0602

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FEB 28 2005

OFFICE OF PETITIONS

NEAL, GERBER, & EISENBERG
SUITE 2200
2 NORTH LASALLE STREET
CHICAGO, IL 60602

In re Application of	:	DECISION ON PETITION
Holder et al.	:	
Application No. 10/290,620	:	
Filed: November 7, 2002	:	
Atty Docket No.:	:	
36400.45US1	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed January 12, 2005.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 21, 2004. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 22, 2004. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The issue fee was paid on November 1, 2004. Deposit account 50-2261 has been charged the petition fee, $1500.00, as authorized in the Fee Transmittal filed with the instant petition.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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NEAL, GERBER, & EISENBERG
SUITE 2200
2 NORTH LASALLE STREET
CHICAGO, IL 60602

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Lonnie E. Holder, et al.	:	
Application No. 10/290,620	:	ON PETITION
Filed: November 2, 2002	:	
Attorney Docket No. 36400.45US1	:	

This is a decision on the petition, filed May 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3745 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE,CA 95134

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Gauselmann, Michael	:	
Application No. 10/290,632	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. ATR-A-112	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 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 November 10, 2004. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on March 11, 2005. A Notice of Abandonment was mailed July 6, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 082504

WU & CHEUNG, LLP
7700 IRVIINE CENTER DRIVE
SUITE 710
IRVINE, CA 92618-3043

AUG 30 2004

In re Application of:	:	
SHU-YA *et al.*	:	
Serial No.: 10/290,635	:	DECISION ON REQUEST TO WITHDRAW
Filed: November 12, 2002	:	FROM RECORD
Attorney Docket No.: **JC-7839-CIP**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 05, 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 Charles C. H. Wu, on behalf of Maria Erlinda C. Sarno. There is no outstanding Office action at this time.

The request is **APPROVED**.

All other attorneys and agents for Wu & Cheung LLP remain of record at this time.

All future communications from the Office will continue to be directed to Wu & Cheung LLP, at the above address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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INNOVATION PARTNERS
540 UNIVERSITY DRIVE
SUITE 300
PALO ALTO CA 94301

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FEB 0 7 2007

OFFICE OF PETITIONS

In re Application of :
Allen J. Wright :
Application No. 10/290,640 :
Filed: November 8, 2002 :
Attorney Docket No. 1354 :

ON PETITION

This is a decision on the paper filed October 20, 2006 which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) 3.

A review of the Office records does not show receipt of a proper petition as noted in the transmittal letter submitted on October 20, 2006.

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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SUITE 300
PALO ALTO CA 94301

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OFFICE OF PETITIONS

In re Application of	:	
Allen J. Wright	:	
Application No. 10/290,640	:	DECISION GRANTING PETITION
Filed: November 8, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1354	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a letter and replacement drawing; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability of June 1, 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 and for review of the drawing sheet submitted on October 20, 2006 and resubmitted with the above petition on February 21, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

LESLIE GLADSTONE RESTAINO
BROWN RAYSMAN MILLSTEIN FELDER & STEINER
163 MADISON AVENUE, P.O. BOX 1989
MORRISTOWN, NJ 07962-1989

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JUN 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
David E. Weinstein et al	:	
Application No. 10/290,654	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. 5402-5	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 10, 2003. 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 March 11, 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, since the $1005.00 extension of time submitted with the petition on May 17, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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. 4

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MAR 1 0 2003

OFFICE OF PETITIONS

KENYON & KENYON
ONE BROADWAY
NEW YORK, N.Y. 10004

In re Application of :
Jui-Yi Psai :
Application No. 10/290,656 :
Filed: November 8, 2002 :
Attorney Docket No. :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OCT 01 2007

OFFICE OF PETITIONS

In re Patent No. 7,169,557	:	LETTER REGARDING
Rosenblum et al.	:	PATENT TERM ADJUSTMENT
Issue Date: January 30, 2007	:	and
Application No. 10/290,672	:	NOTICE OF INTENT TO ISSUE
Filed: November 7, 2002	:	CERTIFICATE OF CORRECTION
Atty Docket No.7414.0087-00000	:	

This is in response to the "NOTIFICATION CONCERNING PATENT TERM ADJUSTMENT" filed March 2, 2007, notifying the Office of an error in Applicants' favor in the determination of patent term adjustment under 35 U.S.C. § 154(b). Patentees state that they believe there is an error in the adjustment set forth in the Issue Notification dated January 10, 2007 (and thus, in the patent).

The request for correction 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 **THREE HUNDRED EIGHTY-EIGHT (388)** days.

On January 30, 2007, the application matured into U.S. Patent No. 7,169,557, with a revised patent term adjustment of 431 days. Patentees do not state a basis for their belief that the patent term adjustment is in error.

Nonetheless, a review of the record reveals 2 bases for entry of periods of reduction. First, pursuant to 37 CFR 1.704(c)(8), a period of reduction of 24 days should have been entered in association with the filing of a supplemental paper on June 30, 2006. A response to the non-final Office action was filed on

June 6, 2006. Thereafter, on June 30, 2006, then applicants filed an Information Disclosure Statement (IDS). The IDS was not expressly requested by the examiner and did not include a 1.704(d) statement. Accordingly, the period of reduction is 24 days (i.e. June 7, 2006 to June 30, 2006).

Furthermore, pursuant to 37 CFR 1.704(c)(10), a period of 19 days should have been entered in association with the filing of the letter entitled Request for Reconsideration of Examiner's Refusal To Consider The Information Submitted With The Information Disclosure Statement Filed June 30, 2006, filed November 3, 2006. This letter was filed after the mailing of the Notice of Allowance. An Office action was mailed in response on November 21, 2006. Accordingly, the period of reduction is 19 days (beginning on November 3, 2006 and ending on March 1, 2007.

In view thereof, the patent should have issued with a revised patent term adjustment of three hundred eighty-eight (388) days (431 - (24 + 19)).

As this letter was submitted to advise the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks Patentees for their good faith and candor in bringing this matter 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 **three hundred eighty-eight (388)** days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,169,557 B2

DATED : January 30, 2007

INVENTOR(S) : Rosenblum 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 (431) days

Delete the phrase "by 431" and insert – by 388 days--

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VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of
Rudy Publ et al
Application No. 10/290,673
Filed: November 8, 2002
Attorney Docket No. 00319.00.0973

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed October 22, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional Application No. 60/344,751, filed November 9, 2001, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on November 8, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed provisional application has been included in the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly,

having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/344,751 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220.

The application is being forwarded to Technology Center AU 3723 for appropriate action on the amendments submitted October 22, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/344,751.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Dorsey & Whitney, LLP
Intellectual Property Department
50 South Sixth Street
Minneapolis, MN 55402-1498

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APR 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Andrew John Cardno	:	
Application No. 10/290,677	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. 14535	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed to applicant on July 13, 2004, which set a 3 (three) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on October 14, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, a Request for Continued Examination (RCE) under 37 CFR 1.114. Receipt of the RCE is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 3600 for processing the RCE filed with the instant petition.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 24,2007

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/290,694 Patent No.: 7262164 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Carlin Tsang — **SPE**

1654 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Paper No. 41105

Peter J. Gluck
Advanced Medical Optics, Inc.
1700 E. St. Andrew Place
Santa Ana CA 92705

APR 13 2005

In re Application of:
KADZIAUSKAS *et al.*
Serial No.: 10/290,700
Filed: November 08, 2002
Attorney Docket No.: **27530**

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file a response to the Restriction Requirement mailed on September 09, 2003. A Notice of Abandonment was mailed on September 30, 2004.

A review of the written record indicates that a proper response to the Restriction Requirement was previously filed on October 22, 2003, but not processed in the application file prior to the mailing of the Notice of Abandonment. The response includes a request for a one-month extension of time and an election of Group 1, claims 1-6, with traverse. Since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/30/08

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/290700 Patent No: 7373850 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE **Art Unit** 2856

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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ALWORTH LAW & ENGINEERING
505 CUMBERLAND ROAD
TYLER TX 75703-9324

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Melton and Majors :
Application No. 10/290,701 :
Filed: November 8, 2002 :
Attorney Docket No. 02 PAT 178 :

ON PETITION

This is a decision in response to the paper filed August 12, 2004, which is being treated as a petition under 37 CFR 1.10(d) to accord the above-identified application a filing date of November 7, 2002, instead of November 8, 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10."

The application was received along with an express mail label which indicated a date-in of November 8, 2002. Therefore, the Office of Initial Patent Examination correctly assigned the application a filing date of November 8, 2002. It is noted that the label is also stamped with a date of November 8, 2002.

37 CFR 1.10(d) provides relief when an applicant can show that the date-in was incorrectly entered by the USPS.

37 CFR 1.10(d) requires a showing corroborated by:
(1) evidence from the USPS, or
(2) evidence that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has failed to satisfy (1) or (2). The instant petition is not accompanied by the evidence from the USPS or that came into being within one business day of deposit.

Petitioner states that the USPS fee was charged to an Express Mail Corporate Account. Petitioner should note that evidence from the USPS may be an Express Mail Corporate Account Mailing Statement.

Evidence that came into being within one business day after the deposit of the correspondence as Express Mail may be in the form of a log book which contains information such as the Express Mail number; the application number, attorney docket number or other such file identification number; the place of deposit; date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

Although the application includes a certificate of mailing, 37 CFR 1.8 cannot be used to obtain a filing date for an application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

If a request for reconsideration is not filed, the Office of Initial Patent Examination will be notified of the dismissal and instructed to mail a Notice of Abandonment *if* such a Notice has not already been mailed by the time the file is further reviewed.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

James W. McKee, Esq.
Fay, Sharpe, Fagan, Minnich & McKee, LLP
7th Floor
1100 Superior Avenue
Cleveland, OH 44114-2518

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Redding et al.	:	
Application No. 10/290,707	:	DECISION GRANTING
Filed: November 8, 2002	:	PETITION
Attorney Docket No. JWMZ 2 00174	:	

This is a decision on the petition filed February 7, 2003, to establish that Figure 9 was part of the originally filed application.

On November 8, 2002, the application was filed.

On December 11, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 8, 2002, and advising applicants that Figure 9 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figure 9 was deposited on November 8, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 9 sheets of drawings on November 8, 2002.[1] Petitioner has also submitted a copy of the missing documentation- sheet 9 of the drawings consisting of Figure 9.

Upon review of the record, Figure 9 deposited on February 7, 2002, has not been located. However, the evidence is convincing that the application papers deposited on November 8, 2002, included Figure 9, and that Figure 9 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figure 9 submitted with the petition will be used for examination purposes.

No petition fee is due since the petition is granted. Therefore, a petition fee has not been charged to petitioner's deposit account.

The Notice mailed December 11, 2002, was sent in error and is hereby vacated.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 8, 2002, using the application papers filed on November 8, 2002, and the copy of Figure 9 filed on February 7, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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OFFICE OF PETITIONS

In re Patent of	:	
Evans et al.	:	
Application Number: 10/290748	:	
Filing or 371(c) Date: 11/07/2002	:	ON PETITION
OPIOID RECEPTOR GENES	:	

This is a decision on the Petition Under 37 C.F.R. § 1.182 to Withdraw an Originally Submitted Terminal Disclaimer and Substitute the Terminal Disclaimed Enclosed," filed April 13, 2007.

The Petition is **granted**.

Applicant files the instant petition and requests withdrawal of the terminal disclaimer filed January 3, 2006 to obviate a double patenting rejection over a "prior" patent, because the terminal disclaimer failed to include an exception for any extensions of term granted with regard to the patent issued on the present application. Applicant also requests entry of a Substitute Terminal Disclaimer filed on even date herewith.

As the Examiner has agreed, the petition is granted.

The application is being referred to Technology Center Art Unit 1647 for withdrawal of the Terminal Disclaimer, filed January 3, 2006, and for further processing 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

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Paper No.

WRIGHT MEDICAL TECHNOLOGY, INC.
5677 AIRLINE ROAD
ARLINGTON TN 38002-9501

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Brad L. Penenberg	:	
Application No. 10/290,770	:	
Filed: November 7, 2002	:	DECISION ON PETITION
Attorney Docket No. 702.175.2	:	PURSUANT TO
Title: APPARATUS FOR, AND	:	37 C.F.R. § 1.181(A)
METHOD OF, PREPARING FOR AND	:	
INSERTING HIP JOINT PROSTHESIS	:	
USING COMPUTER GUIDANCE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on January 25, 2008.

The Revocation of Power of Attorney and Appointment of New Power of Attorney that was submitted on September 7, 2004 has been entered and made of record. The Office regrets the period of delay in entering this paper.

BACKGROUND

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 October 26, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on January 27, 2007. A notice of abandonment was mailed on August 10, 2007.

With this petition, Petitioner has alleged that the Office communication was not received.

It is clear that Petitioner attempted to change the correspondence address via the submission of a Revocation of Power of Attorney and Appointment of New Power of Attorney on September 7, 2004, and made a plurality of subsequent inquiries pertaining to the Office's failure to timely enter this request.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the final Office action of October 26, 2006, and will set a new period for response.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/290,770	11/07/2002	Brad L. Penenberg	PENEN-60406

CONFIRMATION NO. 3584

POA ACCEPTANCE LETTER

37902
WRIGHT MEDICAL TECHNOLOGY, INC.
5677 AIRLINE ROAD
ARLINGTON, TN 38002-9501

OC000000028883366

Date Mailed: 03/17/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/07/2004.

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.

/pashanoski/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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1105 NORTH MARKET STREET
P.O. BOX 948
WILMINGTON, DE 19899-0948

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Czubarow, et al. :
Application No. 10/290,771 : ON PETITION
Filed: November 8, 2002 :
Attorney Docket No. DIEMAT-8

This is a decision on the petition under 37 CFR 1.137(a), filed February 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to file timely replies to the Notice of Allowance and Issue Fee Due and Notice of Allowability mailed November 3, 2004. The notices set non-extendable periods for reply of three months from their mailing date. A proper response was not received within the allowed period, and the application became abandoned on February 4, 2005.

The drawings filed February 9, 2005, are noted. The issue fee is noted as being received on February 9, 2005.

The file is now being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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PETERS VERNY JONES & SCHMITT, L.L.P.
425 SHERMAN AVENUE
SUITE 230
PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Mir A. Imran	:	
Application No. 10/290,788	:	DECISION ON PETITION
Filed: 7 November, 2002	:	UNDER 37 CFR 1.78(a)(3)
Atty Docket No. 4004.10-6	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 9 September, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in an amemdment filed on 1 May, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application.[1]

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[2] 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:

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[1] *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

[2] *Note* 37 CFR 1.121.

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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 Douglas I. Wood at 571.272.3231.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SUITE 230
PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Application of	:
Imran et al.	:
Application No. 10/290,788	: DECISION ON PETITION
Filed: 7 November, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 4004.10-6	:

This is a decision on the renewed petition, filed on 16 March, 2005, which is treated as a petition filed under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/847,884 as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, was mailed on 1 August, 2003.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3736 for appropriate action on the amendment filed 16 March, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

Frances M. Hicks
Lead Paralegal
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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Paper No. 4

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690

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OFFICE OF PETITIONS

In re Application of	:
Baerlocher et al.	:
Application No. 10/290,800	: DECISION DISMISSING
Filed: 6 November, 2002	: PETITION
Attorney Docket No. 0112300-1164	:

This is a decision on the petition filed on 19 February, 2003, requesting that the above-identified application be accorded a filing date of 8 November, 2002, instead of the presently accorded filing date of 6 November, 2002.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on 8 November, 2002, pursuant to the requirements of 37 CFR 1.10. Specifically, petitioners assert that the "date-in" of 6 November, 2002, was incorrectly entered by the USPS.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1] (emphasis added)

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show

[1] See 37 CFR 1.6(a).

> that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

The petition lacks the showing required by item (3) above. Petitioners have not presented any corroborating evidence that the correspondence was deposited in Express Mail service prior to the last scheduled pickup for that day. If the error was due to the USPS entering the wrong date on the Express Mail label, petitioners should request a letter from the USPS stating that the correct date of deposit is 8 November, 2002, and explaining why the error occurred. Additionally, petitioners may provide evidence that came into being after deposit and within one business day of deposit of the application in Express Mail. Such evidence may include a mail log with an entry made after the application was deposited in Express Mail, or a letter to the client sent after the mailing of the application confirming the mailing of the application.

Petitioner should also note that while there is no requirement of 37 CFR 1.10(d) for a certificate of mailing by "Express Mail",[2]

---

[2] See 1174 O.G. Pat. Of. 92 (May 16, 1995).

the other requirements of 37 CFR 1.10(d), including the requirement that the correspondence must have the number of the Express Mail mailing label placed thereon prior to mailing, have not been waived. In accordance with 37 CFR 1.10(d)(3), the Express Mail certificate of mailing may not serve as evidence of timely mailing because it was created prior to the deposit of the application in Express Mail. Furthermore, at best, the application transmittal sheet showing a date of 8 November, 2002, evidences petitioners' intent to deposit the application on that date.

Accordingly, the petition is dismissed.

The application is being returned to Office of Initial Patent Examination for further processing with the presently accorded filing date of 6 November, 2002.

Telephone inquiries 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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OCT 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Baerlocher et al.	:	
Application No. 10/290,800	:	DECISION DENYING PETITION
Filed: 6 November, 2002	:	
Attorney Docket No. 0112300-1164	:	

This is a decision on the request for reconsideration filed on 4 August, 2003, requesting that the above-identified application be accorded a filing date of 8 November, 2002, instead of the presently accorded filing date of 6 November, 2002.

The petition is **denied**.[1]

BACKGROUND

Applicants filed a petition on 19 February, 2003, alleging that applicants deposited the original application papers in USPS Post Office to Addressee Express Mail service on 8 November, 2002, and that the application was entitled to a filing date of 8 November, 2002, rather than the presently-accorded filing date of 6 November, 2002.

In support of the petition, petitioners provided a copy of Express Mail label No. EL811965728US (the same Express Mail number found on the itemized transmittal letter accompanying the application papers). The Express Mail label shows a "date-in" of 11/06/02. Petitioners argued, however, that the application was entitled to the later filing date because it was actually deposited with the USPS on 8 November, 2002, and that the USPS entered the "date-in" of 11/06/02 in error. Petitioners also pointed to their "Certificate of Express Mailing" dated 8 November, 2002.

[1]This is a final agency action. See MPEP 1002.02.

The petition was dismissed on 18 March, 2003, because petitioners had failed to provide sufficient evidence that the application had in fact been deposited in Express Mail service on 8 November, 2002, rather than 6 November, 2002. Petitioners were advised to provide either a letter from the USPS stating that the correct date of deposit was 8 November, 2002, and explaining why the error occurred. Petitioners were also informed that, alternatively, they could provide evidence that came into being after deposit and within one business day of deposit showing that the application was in fact deposited in Express Mail service on 8 November, 2002, and were reminded that there is no provision in the rules for use of a Certificate of Mailing to establish the filing date when Express Mail service is used.

In the present request for reconsideration, petitioners again assert that the "date-in" of 6 November, 2002, was incorrectly entered by the USPS. Petitioners have not provided an explanation from the USPS or any other evidence to establish the date of deposit as 8 November, 2002, but instead appear to rely on the fact that they are requesting a later, rather than earlier, filing date as justification for granting the petition.

STATUTES AND REGULATIONS

35 U.S.C. 21(a) states:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered to be filed in the Office on the date on which it was deposited with the United States Postal Service but for postal interruptions or emergencies designated by the Commissioner.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be

> accorded the Office receipt date as the filing date.[2] (emphasis added)

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

OPINION

Petitioners have provided no evidence in support of their contention that the application was deposited in Express Mail service on 8 November, 2002, rather than 6 November, 2002, as indicated on the Express Mail mailing label.

---

[2] See 37 CFR 1.6(a).

The PTO 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. Placing the "Date In" on the Express Mail label and receipt by the postal clerk establishes that the package was actually received by the USPS. That is the date that verifies that the package was actually mailed. While it is unclear whether petitioners deposited in the application in an Express Mail "drop box" or deposited the application with the USPS by handing it directly to a postal employee at a Post Office, deposit of the application in an Express Mail drop box on a given date, per se, does not entitled applicants to the date of deposit as the filing date. Likewise, if the application was handed to a Postal Service employee, it is petitioners' responsibility to ensure, at the time of deposit, that petitioners receive a properly completed copy of the Express Mail label, bearing the correct "date-in", from the Postal Service employee to whom the application was given for mailing.

While the Office does not dispute that petitioners intended to file the application on 8 November, 2002, without the requisite showing of proof, the Office is, unfortunately, unable to grant the relief requested.

Additionally, as previously stated, there is no requirement of 37 CFR 1.10(d) for a certificate of mailing by "Express Mail".[3] In accordance with 37 CFR 1.10(d)(3), the Express Mail certificate of mailing may not serve as evidence of timely mailing because it was created prior to the deposit of the application in Express Mail.

CONCLUSION

The evidence and arguments presented have been carefully considered, but are not persuasive of applicants' entitlement to a filing date of 8 November, 2002. Applicants must establish to the satisfaction of the Commissioner that the original application papers were properly deposited in Express Mail service on 8 November, 2002. In this case, applicants have not provided sufficient evidence to support their entitlement to a filing date of 8 November, 2002. Accordingly, applicants have failed to meet their burden.

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[3] See 1174 O.G. Pat. Of. 92 (May 16, 1995).

The previous decision has been reconsidered as requested. However, the petition is denied.

This application file is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Willett, et al.
Application No. 10/290,817
Filed: November 8, 2002
Attorney Docket No. 0EKM-101774
FOR: GOLF CLUB HEAD HAVING A REMOVABLE WEIGHT

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed December 26, 2002 (certificate of mailing date December 18, 2002), requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed December 10, 2002 .

The application was deposited on November 8, 2002. On December 10, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the above-identified application because the application as filed did not include drawings.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the application be accorded a filing date of November 8, 2002 on the basis that 4 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on November 8, 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 November 8, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 4 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 4 sheets of drawing figures were filed on November 8, 2002. MPEP 503. Accordingly, the request is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of November 8, 2002, using the copy of the 4 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 4 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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SANTA MONICA CA 90404

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OFFICE OF PETITIONS

In re Application of
Gary Steven Kochamba
Application No. 10/290,819
Filed: November 8, 2002
Attorney Docket No. 58138-010400

ON PETITION

This is a decision on the petition filed March 14, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned March 9, 2005 for failure to timely pay the issue fee on or before March 8, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee in the amount of $700, petition fee in the amount of $750,[2] and publication fee in the amount of $300, in accordance with 37 CFR 1.18, have been charged to deposit account no. 50-2638.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division for processing 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)).

[2]Effective December 8, 2004, the petition fee was increased to $750.

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8/17/07

Joseph E. Funk
PO Box 661
Londonderry, NH 03053

In re Application of:
Waszak, John P.
Serial No.: 10/290,824
Filed: November 8, 2002
Docket: 03-03

Title: A STACKABLE MODULAR CONTAINER HAVING HINGED BOTTOM DOORS FOR COLLECTING AND STORING MATERIALS

DECISION ON PETITION

This is a decision on the petition filed on January 11, 2005 under 37 CFR § 1.181. Petitioner requests reconsideration of abandonment under 37 CFR § 1.135.

The petition is granted.

Background

Petitioner received a First Office action dated May 12, 2004 where Examiner rejected claim 1-20 under 35 U.S.C. 112. Amendment was filed September 27, 2004. Examiner responded December 23, 2004 stating that amendment was non-responsive to First Office action, that six months had passed from May 12, 2004, and that application had gone abandoned. Applicant petitions to withdraw abandonment.

Discussion

Petitioner's original claim 1 read:

> 1. "**A vertically stackable bin** for holding material, a plurality of the bins being stacked on top of each other, **each bin comprising:**
> a front wall, a rear wall and a pair of opposite side walls, all formed of self supporting material, and each wall has a top edge and a bottom edge; and
> a closure mounted in the bottom of the bin that is closed to hold the material in the bin, and the closure is opened to permit material inserted into the bin to pass through the bin." **[Emphasis added]**

In the First Office action on May 12, 2004 rejecting claim 1-20 under 35 U.S.C. 112, the Examiner states that the claim 1 language fails to clarify the quantity of

bins being claimed. In addition, it fails to clarify whether the plurality of bins refers to "the stackable bin previously introduced or another set of bins." Furthermore, it can't be determined if "bin" refers to the "stackable bin" or one of the "plurality of the bins."

In response to the First Office action, petitioner filed an amendment on September 27, 2004. Amended Claim 1 read:

> "'**A vertically stackable, man portable bin** for holding material, **the bin comprising**:
> a front wall, a rear wall and a pair of opposite side walls, all formed of self supporting material, and each wall has a top edge and a bottom edge, and all walls are tapered so that the top of the bin is larger than the bottom of the bin and this permits the bin to be nested in an identical bin when not in use; and
> a closure mounted in the bottom of the bin that may be opened or closed, the closure is opened to permit material inserted at the of the bin to pass through and out the bottom of the bin, the closure is closed to hold the material in the bin, and wherein the bin may be carried by an individual when filled with a man portable amount of material,
> wherein **when a plurality of the bins are stacked together** and there is a top most bin and a bottom most bin in the stack, as a lower bin is filled to a level that does not exceed the weight or volume capacity of the bin the closure of the bin immediately above the filled bin is closed to permit additional material to be captured in the bin immediately above the filled bin, and when the bins are to be moved the bins are removed from each other starting with the top most bin and proceeding to the bottom most bin." **[Emphasis added]**

Examiner responded December 23, 2004, stating that the amendment was non-responsive to the first Office action, that six months had passed from May 12, 2004, and that application had gone abandoned. Examiner pointed out, "There are no claims directed to the original invention of a stack of bins."

Based on the clarified language, "'**A vertically stackable, man portable bin** for holding material the bin comprising…" and "wherein **when** a plurality of the bins are stacked together…" [emphasis added] the claim 1 amendment sufficiently indicates that petitioner is claiming a single, stackable bin, and not a stack of bins. In addition, the last part of claim 1 describes how the claimed elements of one bin provide for stackable operations.

Decision

In view of the amended claim language, Examiner's holding of abandonment is hereby vacated. The case is being placed back in pending status as of the original filing date, and forwarded to the Examiner for further examination.

PETITION GRANTED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

Frederick R. Schmidt, Director
Technology Center 3700

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VICE PRESIDENT, PATENTS AND LICENSING
BAYER CORPORATION
400 MORGAN LANE
WEST HAVEN CT 06516

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OFFICE OF PETITIONS

In re Application of	:	
Jeschke, et al.	:	DECISION ON PETITION
Application No. 10/290,827	:	
Filed: November 8, 2002	:	
Atty. Dkt. No.: MO 4941C1 / Le A 31 247C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 6, 2005 for failure to timely submit a proper reply to the Office communication mailed January 5, 2005. The Office communication set a one month shortened statutory period of time for reply. No extension of time in accordance with 37 CFR 1.136(a) was timely requested. Notice of Abandonment was mailed September 29, 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 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Office communication is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 1600 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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NOV 22 2004

Sanford Astor
Birch, Stewart, Kolasch & Birch, LLP
10940 Wilshire Blvd., 18th Floor
Los Angeles, CA 90024

Paper No. 11

In re Application of Leonard L. Portnoy Serial No. : 10/290,828 Filed : November 8, 2002 For : Snoreaway Space Block With Snore Strips or Portnoy Buccal Tab	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on a request filed September 30, 2004, to review the holding of abandonment mailed September 21, 2004, for failure to file a response to the Office action mailed February 21, 2004. The request is based on an allegation that applicant did not receive the Office action mailed February 21, 2004. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement 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. See 1156 OG 53.

The request filed September 30, 2004 includes items (1) but not (2) and (3). The request is therefore dismissed and the holding of abandonment stands. Any request for reconsideration of this decision should 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". Telephone inquiries regarding this decision should be directed to Special Program Examiner Andres Kashnikow at (703) 308-1137.

It is also noted that the correspondence address appears to have changed to the one indicated above. However, no formal notification of a correspondence address change has been filed as required by 37 CFR 1.33. Also note section 601.03 of the Manual of Patent Examining Procedure.

Summary: Petition to Withdraw Holding of Abandonment is Dismissed pending the submission of a renewed petition.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

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MAR 09 2005

Paper No. 13

Sanford Astor, Esq.
Birch, Stewart, Kolasch & Birch, LLP
10940 Wilshire Blvd.
Los Angeles, CA 90024-3952

In re Application of Leonard L. Portnoy Serial No. : 10/290,828 Filed : November 8, 2002 For : Snoreway Space Block with Snore Strips or Portnoy Buccal Tab	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's renewed request filed December 15, 2004, to review the holding of abandonment mailed September 21, 2004, for failure to respond to the Office action mailed February 19, 2004. The basis for the request is that applicant did not receive the communication mailed February 19 2004. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record 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. See 1156 OG 53.

In a decision mailed November 22, 2004, petitioner was informed that the petition lacked items (2) and (3). In support of the renewed request, petitioner has submitted items (2) and (3). It is noted, however, that exhibit "8", a copy of the computer-generated daily docket sheet(s) of Birch, Stewart, Kolasch & Birch, LLP for the date of May 21, 2004, has been submitted under the assumption that the period for response set in the Office action mailed February 19, 2004 was a three-month period for response. The period for response set in the Office action in question was a one-month period. Thus, the daily docket sheet(s) that needed to be submitted should have been for the date of March 19, 2004. However, as the information submitted (i.e., the copy of Mr. Astor's own personal docket) is sufficient to establish non-receipt of the action in question, it will not be necessary to submit the firm's docket sheet(s) for the March 19, 2004 date.

In view of the above, the request is therefore GRANTED and the holding of abandonment withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the re-mailing of the Office action of February 19, 2004, which action will set forth a new period for reply.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/02/23/05

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DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

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OFFICE OF PETITIONS

In re Patent No. 6,774,012	:	
Issued: August 10, 2004	:	
Application No. 10/290,841	:	DECISION GRANTING PETITION
Filed: November 8, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 5296-12200 PM02042	:	

This is a decision on the petition, filed October 11, 2006, 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**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 10, 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.

This application matured into Patent No. 6,774,012 on August 10, 2004. Therefore, no further action being required.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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February 9, 2004

Samir A. Bhavsar
Baker Botts
2001 Ross Ave.
Dallas, TX 75201-2980

In re application of:
Weig Feng et al DECISION ON PETITION
Serial No.: 10/290,857
Filed: November 8, 2002
For: VARIABLE OPTICAL ATTHNUATOR USING CRYSTAL WEDGES

This is a decision on the petition received by fax on August 12, 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 10, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned February 11, 2003. The notice of abandonment was mailed January 28, 2004.

On August 12, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice of Missing Parts mailed December 10, 2002.

The evidence submitted is sufficient to establish that the petitioners never received the Notice of Missing Parts mailed December 10, 2002.

The petition is hereby Granted.

Enclosed is a new Notice to File Missing Parts giving counsel 2 months from the date of the notice to respond.

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 E. Day
Program Management Assistant
Office Initial Patent Examination

Enclosure: 1

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FROM	Karen W. Langford for Samir A. Bhavsar — VOICE NO. 214.953.6688	DATE	August 12, 2003
RETURN TO	Karen Langford — PERSONAL FAX NO. 214.661.4688	PAGES (including cover)	8

MESSAGE

In re Application of:	Wei Feng et al.
Serial No.	10/290,857
Filing Date:	November 8, 2002
Group Art Unit:	3663
Title:	VARIABLE OPTICAL ATTENUATOR USING CRYSTAL WEDGES

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ATTORNEY DOCKET NO.
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PATENT
10/290,857

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Wei Feng et al.
Serial No.:	10/290,857
Filing Date:	November 8, 2002
Group Art Unit:	3663
Examiner:	Unknown
Title:	VARIABLE OPTICAL ATTENUATOR USING CRYSTAL WEDGES

CERTIFICATE OF MAILING

I hereby certify that this communication is being transmitted via facsimile to the Office of Initial Patent Exam on the date indicated below and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 223131-1450

Karen H. Langford
Name

August 12, 2003
Date

Attn: Office of Initial Patent Exam
Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

NON-FEE PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT AND RE-MAIL NOTICE TO FILE MISSING PARTS

This petition is filed in response to a telephone call made by Karen Langford, legal assistant with Baker Botts, who spoke with a representative of the Office of Initial Patent Exam. The telephone call was made to find out the status of the "Notice to File Missing Parts of Nonprovisional Application" for above-referenced patent application. It was discovered that this notice was mailed by the U.S. Patent and Trademark Office on December 10, 2002 and set a two month period for reply. The deadline for replying to this notice was July 10, 2003. Therefore, this application is considered abandoned even though the Notice of Abandonment has not been received. This Petition under 37 C.F.R. § 1.181 is to request that the Notice to File Missing Parts be remailed. As indicated in the attached statement of facts, Applicants never received a Notice to File Missing Parts of Nonprovisional Application, and therefore, did not respond by the due date of February 10, 2003. Accordingly, the holding of

abandonment is improper pursuant to M.P.E.P. § 711.03(c)II. The required showing to establish nonreceipt pursuant to M.P.E.P. § 711.03(c)II is provided in the following documents:

1. Counsel's Statement of Facts in Support of Petition to Withdraw Holding of Abandonment.
2. Copy of the File History Wrapper for Serial No. 10/290,857.

Attached is Counsel's Statement of Facts in Support of Petition to Withdraw Holding of Abandonment to reflect that the Notice to File Missing Parts of Nonprovisional Application is not shown on the docket record (file history wrapper) and a copy of this docket record is attached to Counsel's Statement of Facts.

As the abandonment of this case was through no fault of Applicants, it is respectfully requested that a new Notice to File Missing Parts of Nonprovisional Application be mailed and the date for response to be two months from the mail date of the new Notice to File Missing Parts of Nonprovisional Application, pursuant to M.P.E.P. § 711.03(c)II. It is not believed that any fees are due. However, if it is determined that a petition fee or any additional fees are due, please charge these fees to Baker Botts L.L.P. Deposit Account No. 02-0384.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants

Samir A. Bhavsar
Reg. No. 41,617

Date: August 12, 2003

CORRESPONDENCE ADDRESS:

Customer No. 05073

Attorney's Docket:
068875.0387

PATENT
10/290,857

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Wei Feng et al.
Serial No.:	10/290,857
Filing Date:	November 8, 2002
Group Art Unit:	3663
Examiner:	Unknown
Title:	VARIABLE OPTICAL ATTENUATOR USING CRYSTAL WEDGES

Attn: Office of Initial Patent Exam
Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313.1450

Dear Sir:

COUNSEL'S STATEMENT OF FACTS IN SUPPORT OF PETITION TO WITHDRAW HOLDING OF ABANDONMENT

I am a patent attorney employed with Baker Botts L.L.P. I am listed as an attorney of record for the above-identified pending U.S. patent application entitled *Variable Optical Attenuator Using Crystal Wedges* filed on November 8, 2002, Application No. 10/290,857. My residence is Dallas, Texas, and my place of employment is Dallas, Texas, and were so at all times relevant to the Statement of Facts. The following facts relate to the subject application.

1. All mail from the PTO is received in the Baker Botts mailroom and routed to a legal assistant clerk. He opens and date-stamps all mail, and forwards Notices to File Missing Parts of Nonprovisional Applications received from the PTO to the legal assistant assigned to the case. He does not record a log of such received mail and therefore no such log is provided pursuant to MPEP § 711.03(c)II.

2. It is then the responsibility of the legal assistant to docket Notices to File Missing Parts of Nonprovisional Applications received from the PTO. When a Notice to File

Missing Parts of Nonprovisional Application is received, the response due date is docketed along with any other papers due. The file is forwarded to the attorney of record for review and preparation of a Response to Notice to File Missing Parts of Nonprovisional Application.

3. According to the file history wrapper (Tab 2) for this application, reminder notices for the Oath/Declaration and Assignment were docketed for two (2) months from the date of filing of the application (January 8, 2003) as a reminder that these two documents would need to be filed. The Notice to File Missing Parts of Nonprovisional Application dated December 10, 2002 was not docketed and there is no due date for a Response to Notice to File Missing Parts of Nonprovisional Application (February 10, 2003). This indicates that the Notice to File Missing Parts of Nonprovisional Application mailed on December 10, 2002 was not received from the PTO.

4. As an attorney of record for the above-identified pending U.S. patent application, I attest that the Notice to File Missing Parts of Nonprovisional Application dated December 10, 2002, was not received from the PTO. Further, I attest that I have performed a search of the file jacket and all of its contents. The results of the search revealed that the Notice to File Missing Parts of Nonprovisional Application was not in the file jacket. This further indicates that the Notice to File Missing Parts of Nonprovisional Application was not received from the PTO.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application for any patent issuing thereon.

SAMIR A. BHAVSAR

Date: August 12, 2003

Baker Botts L.L.P.
2001 Ross Avenue
Dallas, Texas 75201-2980
(214) 953-6581

Country Application

25-Mar-03

File Number: 068875.0387 1

Country: US **SubCase:**
United States of America

Case Type: CVP Converted U.S. Provisional

Application Status: Pending

Application Number: 10/290857
Filing Date: 08-Nov-2002
Patent Number:
Issue Date:
Publication Number:
Publication Date:
Priority Number: 60/332324
Priority Date: 09-Nov-2001
Tax Schedule: SE
Expiration Date:
Annuity Client: ☑
Tax Start Date:
Client Reference:
Claims: 40
Agent:
Agent Reference Number:

List Of User Actions

Action(s) Du	Due Date		Action Taken
Application Mailed	08-Nov-2002	Due Date	08-Nov-2002
Nonpublication Request	08-Nov-2002	Due Date	08-Nov-2002
Filing Receipt Received	16-Dec-2002	Due Date	16-Dec-2002
Filing Receipt Conf. No. 2408. ATS			
Assignment Due	08-Jan-2003	Reminder	
Oath/Declaration	08-Jan-2003	Reminder	
Priority Claim on Spec.	08-Jan-2003	Reminder	08-Nov-2002
Verified Statement	08-Jan-2003	Due Date	
Information Disclosure Stmnt	08-Feb-2003	Reminder	07-Jan-2003
Priority Claim on Spec.	08-Mar-2003	Final	08-Nov-2002
Appln Status Check (14 Mo.)	08-Jan-2004	Due Date	
Formal Drawings Due	08-May-2004	Final	
Information Dis Follow Up Date	07-Jul-2004	Due Date	

Remarks:

User ID: KLangfor **Date Created:** 12-Nov-2002 **Last Update:** 19-Nov-2002

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

February 9, 2004

Samir A. Bhavsar
Baker Botts
2001 Ross Ave.
Dallas, TX 75201-2980

In re application of:
Weig Feng et al DECISION ON PETITION
Serial No.: 10/290,857
Filed: November 8, 2002
For: VARIABLE OPTICAL ATTHNUATOR USING CRYSTAL WEDGES

This is a decision on the petition received by fax on August 12, 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 10, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned February 11, 2003. The notice of abandonment was mailed January 28, 2004.

On August 12, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice of Missing Parts mailed December 10, 2002.

The evidence submitted is sufficient to establish that the petitioners never received the Notice of Missing Parts mailed December 10, 2002.

The petition is hereby Granted.

Enclosed is a new Notice to File Missing Parts giving counsel 2 months from the date of the notice to respond.

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 E. Day
Program Management Assistant
Office Initial Patent Examination

Enclosure: 1

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

EVANNS & WALSH
119 NORTH SAN VICENTE BOULEVARD
#206
BEVERLY HILLS CA 90211

COPY MAILED

FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of
Alan I. Rubinstein et al.
Application No. 10/290,882
Filed: November 8, 2002
Attorney Docket Number: 03534- P0001C

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 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 June 30, 2003. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned October 1, 2003. Accordingly, a Notice of Abandonment was mailed January 7, 2004.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

Petitioner argues that a request for a three month extension of time and an amendment, in response to the June 30, 2003 non-Final Office Action, were filed December 30, 2003, but that the serial number for the parent application was incorrectly used. Petitioner acknowledges that in that case, papers improperly addressed are treated as not having been filed and thus that this application was properly abandoned. Petitioner requests that the fees paid for the extension of time in the amount of $475 be applied to this matter versus refunding the fees.

With that however, petitioner should be advised that sufficient fees to revive this application have not been submitted. Effective October 1, 2003 the petition fee, for a small entity, was set at $665.00 and not $650.00 as indicated in the petition. The petition fee was underpaid by $15.00. No authorizations for debiting a deposit account for any deficiencies have been granted, but, the USPTO will apply the credit from the extension of time fees to avoid

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

having to dismiss this petition for a fee deficiency. Accordingly, petitioner will receive a refund in the amount of $460.00

This application is being forwarded to Technology Center 1651 for appropriate action on the amendment filed February 13, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

NOTICE OF FEE DUE

DATE: 02-17-04

TO: DAE

FROM: Office of Initial Patent Examination

SUBJECT: Fee Due

APPLICATION NUMBER: 10 290 882

A fee is due for the attached document submitted to the U. S. Patent and Trademark Office for the following reason. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the appropriate fee. If an authorization is not present, notify the applicant of the fee deficiency.

☒ Insufficient fee by check

☐ Insufficient funds in deposit account

☐ Declined credit card

☐ Non authorization for charge to deposit account

☐ No fee submitted per requirement

The correct fee code: 2453	amount	$ 665
The suspended fee code: 1999	amount	- $ 650
Fee Due	amount	=$ 15

If you have any questions, please contact Cynthia Streater at 703-306-5430 or Eleanor Kurtz at 703-308-3642.

Terminal Operator Ab Cbq

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/19/04 | 2 Serial/Patent # 10/290,882

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	6	2/13/04	$ 460.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $

8 TO BE REFUNDED BY:

X Treasury Check

Credit Deposit A/C #:

9 [ ][ ] -- [ ][ ][ ][ ]

10 REASON:

X Overpayment

Duplicate Payment

No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Patricia Faison-Ball TITLE: Attorney

SIGNATURE: Patricia Faison-Ball PHONE: 305 4497

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 2/20/04

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

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

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 04/23/2010

Applicant	: Marco E. Foschiano	: DECISION ON REQUEST FOR
Patent Number	: 7606229	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/290,906	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1369** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 05/18/2010

Applicant : Marco E. Foschiano
Patent Number : 7606229
Issue Date : 10/20/2009
Application No : 10/290,906
Filed : 11/08/2002

: 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 **1408** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Marshall, Gerstein & Borun (Biomarin)
233 South Wacker Drive
6300 Sears Tower
Chicago IL 60606

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SEP 29 2009

OFFICE OF PETITIONS

In re Application of :
Minmin Qin et al. :
Application No. 10/290,908 : NOTICE
Filed: November 7, 2002 :
Attorney Docket No. **00800.0085.NPUS00** :

This is a notice regarding your request filed August 6, 2009, 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**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Luisa Bigornia 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, Luisa Bigornia desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Luisa Bigornia, 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.

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) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Luisa Bigornia
BioMarin Pharmaceutical Inc.
105 Digtal Drive
Novato, CA 94949

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.

ALZA CORPORATION
P O BOX 7210
INTELLECTUAL PROPERTY DEPARTMENT
MOUNTAIN VIEW, CA 94039-7210

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JUN 3 0 2004
OFFICE OF PETITIONS

In re Application of :
Gilbert et al. :
Application No. 10/290,914 :
Deposited: November 8, 2002 : ON PETITION
Title of Invention: :
PNEUMATIC POWERED :
AUTOINJECTOR :

This is a decision on the Petition to Change Order of Names of Joint Inventors, filed January 14, 2004. The petition is properly treated under 37 CFR 1.182.

The Petition is **granted**.

The order of the names of the inventors has been changed as follows:

1. Scott J. Gilbert
2. Pedro E. de la Serna

This application is being forwarded to Technology Center Art Unit 3763 for examination in due course.

Telephone inquiries concerning this matter should be directed to 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
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CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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JUL 1 5 2004

OFFICE OF PETITIONS

In re Application of
John Liseo, et al.
Application No. 10/290,926
Filed: November 8, 2002
Attorney Docket No. 22970/1-2-CIP

ON PETITION

This is a decision on the petition, filed June 21, 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 November 19, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on May 26, 2004. In response, on June 21, 2004, petitioner submitted the present petition, an amendment and a petition for extension of time.

The petition is **GRANTED**.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $475 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2856 for consideration of the amendment filed June 21, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD,
SUITE 500
ARLINGTON, VA 22201-2909

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OFFICE OF PETITIONS

In re Application of

Char Sample :

Application No. 10/290,961

: DECISION ON PETITION

Filed: November 8, 2002

:

Attorney Docket No. 02-4007

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 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 February 28, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on July 28, 2005, with a request for an extension of time within the second month. An Advisory Action mailed August 3, 2005, advised petitioner that the response of July 28, 2005, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on July 29, 2005. A Notice of Abandonment was mailed on March 15, 2006.

The Request for Continued Examination filed April 14, 2006, is noted and made of record

Deposit account 07-2347 will be charged $1500.00 for the petition fee.

The application is being forwarded to Technology Center 2100, GAU 2134 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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ALLISON JOHNSON, P.A.
LAKE CALHOUN EXECUTIVE CENTER
3033 EXCELSIOR BLVD., SUITE 467
MINNEAPOLIS, MN 55416

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
David E. WOLF	:	
Application No. 10/290,971	:	DECISION ON PETITION
Filed: November 7, 2002	:	TO WITHDRAW
Attorney Docket No. 205-006US2		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 18, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because the attorney of record was not appointed by Customer Number 27791, as indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SENSOR TECHNOLOGIES LLC
910 BOSTON TURNPIKE
SHREWSBURY, MA 01545

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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ALLISON JOHNSON, P.A.
LAKE CALHOUN EXECUTIVE CENTER
3033 EXCELSIOR BLVD., SUITE 467
MINNEAPOLIS, MN 55416

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NOV 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
David E. WOLF	:	
Application No. 10/290.971	:	DECISION ON PETITION
Filed: November 7, 2002	:	TO WITHDRAW
Attorney Docket No. 205-006.US2	:	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 6, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c)..

The request was signed by Allison Johnson the sole attorney of record.

Allison Johnson has been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DAVID E. WOLF, PH.D
285 CONCORD ROAD
SUDBURY, MA 01776

cc: SENSOR TECHNOLOGIES LLC
910 BOSTON TURNPIKE
SHREWSBURY, MA 01545

UNITED STATES PATENT AND TRADEMARK OFFICE

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Intellectual Property Department
Seagate Technology LLC
7801 Computer Avenue South
Bloomington, MN 55435

COPY MAILED

JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Segar et al.	:	
Application No. 10/290,977	:	
Filed: November 8, 2002	:	DECISION ON PETITION
Atty Docket No.:	:	
STL 10566.00	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed March 8, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed October 4, 2005. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned January 5, 2006. A Notice of Abandonment was mailed February 24, 2006.

With the instant petition Applicant has submitted the issue fee.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-25-05

Paper No.: _____

10-290-985.

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 6788250

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.

Please check claims

Thank You For Your Assistance

E Yam
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 approved. gri 5-4-05

Thomas R Durey
SPE

3662
Art Unit

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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JUN 11 2008

OFFICE OF PETITIONS

In re Application of :
BOOTH, Bradley J. :
Application No. 10/291,017 :
Filed: November 7, 2002 :
Attorney Docket No. **42P15227** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 24, 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 1, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is February 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate 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. Edmund P. Pfleger appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Pfleger desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2611 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.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **EDMUND P. PFLEGER**
55 S. COMMERCIAL STREET
MANCHESTER, NH 03101

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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JUL 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Pruvost, Xavier	:	
Application No. 10/291,036	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. PHFR 010159	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 15, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

Petitioner's deposit account was inadvertently charged twice for the $1400.00 issue fee and the $300.00 publication fee. Of the surplus $1700.00, $1500.00 will be moved towards payment of the petition fee. The remaining $200.00 will be credited to petitioner's deposit account as authorized.

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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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/291,037	11/08/2002	Anna L. Buczak	US 020432	3093

24737 7590 04/29/2008
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER
CHAMPAGNE, LUNA

ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APR 2 8 2008

TECHNOLOGY CENTER 3600

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of
Anna L. Buczak et al.
Appl. No. 10/291,037
Filed: November 8, 2002
For: **METHOD AND SYSTEM FOR PROVIDING PREVIOUS SELECTION INFORMATION**

DECISION ON PETITION TO REVIEW RESTRICTION REQUIRMENT UNDER 37 CFR 1.144

This is a decision on Applicants' Petition under 37 CFR 1.144 received on July 30, 2007 requesting a review of the requirement for restriction made in the Office action mailed April 30, 2007.

The Petition is **DISMISSED.**

Applicants presented original claims 1-20. The Examiner issued a non-final Office action on October 27, 2006 on the originally presented claims. Applicants responded on January 29, 2007 with an amendment to independent claim 1, no amendment to independent claim 15, and added new claims 21-30.

On April 30, 2007, the Examiner issued a final Office action including the requirement for restriction between Group I, claims 1-3, 5, 6, 10, 21, and 22 drawn to a method of inhibiting a user; Group II, claims 15-20 and 23-25 drawn to a system of providing previous selection information; and Group III, claims 26-30 drawn to a method of ordering. In this Office action, the Examiner constructively elected by original presentation Group II, claims 15-20, 23-25 for examination.

Applicants traversed the restriction requirement in the response received July 30, 2007. Applicants' traversal was on the grounds that an Office action was already performed on both Groups I and II, that the Examiner does not have the authority to decide whether the applicants must elect the previously examined method or the previously examined apparatus, that independent claims 1 and 15 are not directed to restrictably different categories of invention, that Groups I and III set forth analogous methods that are not properly restrictable, and that the Examiner has not provided the required showing for restriction as indicated by MPEP 806.05(e).

A review of the restriction requirement indicates that the Examiner did not demonstrate that the amended claims of Group I and the newly presented claims of

Group III are directed to inventions that are distinct from and independent of the invention originally claimed, as required by 37 CFR 1.141. A review of the new and amended claims indicates that the groups do not diverge significantly and are not directed to patentably distinct inventions. Further, since the Examiner already provided an Office action on the invention, there would be no additional burden on the Office to examine all of the groups. For at least this reason, the election by the Examiner of Group II by original presentation was improper.

However, the Examiner issued a non-final Office action on January 8, 2008 whereby the restriction requirement was reconsidered and withdrawn. All pending claims 1-3, 5, 6, 10, and 15-30 were examined.

Therefore, in view of the Examiner's withdrawal of the restriction requirement, the petition is moot and thereby dismissed.

SUMMARY: The Petition is **DISMISSED.**

Any questions regarding this decision should be directed to Supervisory Patent Examiner F. Ryan Zeender at 571-272-6790.

Wyn Coggins, Director
Technology Center 3600
(571) 272-5350

FZ:tl 4/14/2008

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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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MAR 1 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Udar Mittal et al	:	
Application No. 10/291,056	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. CML00766M	:	

This is a decision on the petition under 37 CFR 1.182, filed January 10, 2006, to change the order of the inventorship.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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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
10/291,056	11/08/2002	2654	1058	CML00766M	7	33	4

CONFIRMATION NO. 3657
CORRECTED FILING RECEIPT
OC000000018313965
OC000000018313965

22917
MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

Date Mailed: 03/17/2006

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)

UDAR MITTAL, HOFFMAN ESTATES, IL;
JAMES P ASHLEY, NAPERVIILLE, IL;
EDGARDO CRUZ, ROUND LEE, IL;

Power of Attorney: The patent practitioners associated with Customer Number **22917**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/12/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/291,056

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

OPTIMIZING ENCODER FOR EFFICIENTLY DETERMINING ANALYSIS-BY-SYNTHESIS CODEBOOK-RELATED PARAMETERS

Preliminary Class

704

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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Trask Britt
P.O. Box 2550
Salt Lake City, UT 84110

06192006

WITHDRAWAL FROM ISSUE
37 CFR 1.313

In re Application of Mess
Application No.: 10/291,075
Filed: 1-15-2003

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue due to unpatentability of one or more claims pursuant to 37 C.F.R. § 1.313.

The U.S. Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Nathan Flynn, Supervisory Patent Examiner, at (571) 272-1915.

The application is being returned to the examiner for taking appropriate action.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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SALT LAKE CITY UT 84110

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DEC 23 2003

OFFICE OF PETITIONS

In re Application of :
Charles E. Larson :
Application No. 10/291,076 :
Filed: November 7, 2002 :
Attorney Docket No. 4360.2US (99-0890.2) :

ON PETITION

This is a decision on the petition, filed November 24, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 16, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2835 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of	:	
Charles E. Larson	:	
Application No. 10/291,076	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. 4360.2US(99-0890.2)	:	

This is a decision on the petition, filed October 1, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 14, 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 2835 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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P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of
Charles E. Larson
Application No. 10/291,076
Filed: November 7, 2002
Attorney Docket No. 4360.2US(99-0890.2)

ON PETITION

This is a decision on the petition, filed October 1, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 14, 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 2835 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
WASHINGTON, D.C. 20231
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Paper No. 4

David A. Jakopin
PILLSBURY WINTHROP LLP
1600 Tysons Boulevard
McLean, VA 22102

COPY MAILED
FEB 04 2003
OFFICE OF PETITIONS

In re Application of	:	
Dias	:	
Application No. 10/291,080	:	DECISION GRANTING
Filed: November 8, 2002	:	PETITION
Attorney Docket No. 024009/0300215	:	

This is a decision on the petition filed January 14, 2003, to establish that Figures 9 and 10 were part of the originally filed application.

On November 8, 2002, the application was filed.

On December 13, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 8, 2002, and advising applicant that Figures 9 and 10 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figures 9 and 10 were deposited on November 8, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "7 sheets informal drawings" on November 8, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 2 sheet of drawings. A review of the file only indicates the presence of 5 sheets of drawings.

Upon review of the record, Figures 9 and 10 deposited on November 8, 2002, have not been located. However, the evidence is convincing that the application papers deposited on November 8, 2002, included Figures 9 and 10, and that Figures 9 and 10 were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figures 9 and 10 submitted with the petition will be used for examination purposes.

The petition fee of $130 will be credited to petitioner's deposit account.

The Notice mailed December 13, 2002 was sent in error and is hereby vacated.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 8, 2002, using the application papers filed on November 8, 2002, and the copy of two sheets of drawings consisting of Figures 9 and 10 filed on January 14, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

PATTON BOGGS
PO BOX 270930
LOUISVILLE, CO 80027

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JAN 3 1 2003

OFFICE OF PETITIONS

In re Application of
Dragan Maksimovic et al
Application No. 10/291,098
Filed: November 8, 2002
Attorney Docket No. 13743.107US

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2838.

Wan Layman
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Transaction List

Search by

- Accounting Date: (MMDDYY) Operator ID:
- Nam /Numb r: 10291098
- Attrny Docket N :
- D posit Account No.:

Accounting Date Starts: Ends:

Find...

Accounting Date	Operator ID	Seq. No.	Txn Src	Fee Code	St	Amount	Name/Number	Dep Acct
01/10/2003	TDIAZ1	278	SALE	8021	A	40.00	10291098	501848
11/13/2002	WASFAW1	98	SALE	2202	A	162.00	10291098	501848
11/13/2002	WASFAW1	97	SALE	2001	A	370.00	10291098	501848

OK | Adjustment Detail | Authorization Detail | Print Screen

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Adjustment date: 01/14/2003  CV0111
11/13/2002 WASFAW1  00000043 501848   10291098
01 FC:2001        370.00 CR
02 FC:2202        162.00 CR
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01/14/2003 CV0111   00000003 501848   10291098

01 FC:1001        750.00 CH
02 FC:1202        324.00 CH
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UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 8

ROBERT D. FISH
RUTAN & TUCKER, LLP
P.O. BOX 1950
611 ANTON BLVD., 14TH FLOOR
COSTA MESA, CA 92628-1950

In re Application of:	)
John ADDINK, et al	) DECISION ON PETITION TO MAKE
Application No.: 10/291,100	) SPECIAL UNDER 37 C.F.R. §1.102(c)
Filed: November 7, 2002	) AND MPEP § 708.02 (IV):
For: IRRIGATION CONTROLLER USING	) APPLICANT'S AGE
REGRESSION MODEL	

This is a decision on the petition, filed November 10, 2003, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty-five (65) years of age or more. No fee is required for this petition.

The petition includes declaration by John Addink, one of the applicants, asserting that declarant/applicant is sixty five (65) years of age or more.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution and to consider the change of inventorship.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Information Security
(703) 305-9750

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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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

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OCT 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Shawn Jay Cunningham, et al.	:	
Application No. 10/291,125	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. 1426/7/2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 14, 2007. A Notice of Abandonment was subsequently mailed on February 21, 2008. In response, on April 18, 2008, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Bentley J. Olive appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $295 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 2811 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES 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 S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN AVENUE
SUITE 1400
MILWAUKEE WI 53202-6613

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MAY 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael R. Schreiner	:	
Application No. 10/291,155	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. 600.001	:	

This is a decision on the petition, filed April 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 October 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3753 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 7

ALBERT WAI-KIT CHAN
LAW OFFICES OF ALBERT WAI-KIT CHAN, LLC
WORLD PLAZA, SUITE 604
141-07 20TH AVENUE
WHITESTONE, NY 11357

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JUN 2 4 2004
OFFICE OF PETITIONS

In re Application of	:	
Joseph Wing On Tam	:	
Application No. 10/291,168	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. 897-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 Notice to File Corrected Application Papers mailed January 13, 2003. 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 March 14, 2003.

The Power of Attorney and Change of Correspondence Address has been accepted and recorded.

Receipt is acknowledged of the Oath of Declaration filed May 4, 2004, with the instant petition.

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

Commissioner for Patents
United States Patent and Trademark Office
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NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of :
John H. Oates, et al. :
Application No. 10/291,176 : ON PETITION
Filed: November 8, 2002 :
Attorney Docket No. 0102323-0125 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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OFFICE OF PETITIONS

In re Application of John H. Oates, Steven R. Imperiali, Alden J. Fuchs, Kathleen J. Jacques, Jonathan E. Greene, William J. Jenkins, Frank P. Lauginiger, David E. Majchrzak, Paul E. Cantrell, Mirza Cifric, Ian N. Dunn, and Michael J. Vinskus	
Application No. 10/291,176	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.47(A)
Filed: November 8, 2002	
Attorney Docket Number: 0102323-0125	
Title: WIRELESS COMMUNICATIONS SYSTEMS AND METHODS FOR CACHE ENABLED MULTIPLE PROCESSOR BASED MULTIPLE USER DETECTION	

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a)[1], filed May 19, 2003.

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1 A grantable petition under 37 C.F.R. § 1.47(a) requires:
(1) the petition fee of $200;
(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 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that either:
a) a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the

The Office regrets the period of delay in issuing this decision.

This petition pursuant to Rule § 1.47(a) is **GRANTED.**

On November 8, 2002, the application was filed, identifying John H. Oates, Steven R. Imperiali, Alden J. Fuchs, Kathleen J. Jacques, Jonathan E. Greene, William J. Jenkins, Frank P. Lauginiger, David E. Majchrzak, Paul E. Cantrell, Mirza Cifric, Ian N. Dunn, and Michael J. Vinskus as joint inventors. The application was deposited without an executed declaration. On January 16, 2003, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

With the present petition, Petitioner has included, *inter alia*, a declaration that has been signed by each of the inventors save Mr. Cantrell along with the fee that is associated with the late submission of the same, the petition fee, the last known address of the non-signing inventor, and a statement of facts that establishes that a complete copy of the application was mailed to the last known address of the non-signing inventor.

Petitioner has met requirements (1) - (4) of Rule § 1.47(a).

Regarding the fifth requirement of Rule § 1.47(a), Petitioner has not submitted a declaration that complies with 37 CFR § 1.63: the declaration submitted with this petition contains non-dated changes by inventors Fuchs and Jacques, and a non-initialed and non-dated change by inventor Cifric[2].

However, the requirements of both 37 C.F.R. § 1.52(c)(1) and MPEP § 605.04(a) are hereby waived, *sua sponte*.

This application is hereby accorded Rule § 1.47(a) status.

As provided in Rule § 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the

---

non-signing inventor for review and proof that the non-signing inventor refuses to join in the application, or

b) the non-signing inventor cannot be found or reached after diligent effort, and a statement that these efforts were not successful, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

2 See 37 C.F.R. §1.52(c)(1) and MPEP §605.04(a).

address given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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 present application can receive further processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
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

Paul E. Cantrell
15 Prescott Drive
Chelmsford, Massachusetts 01863

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OFFICE OF PETITIONS

In re Application of :
John H. Oates, Steven R. :
Imperiali, Alden J. Euchs, :
Kathleen J. Jacques, Jonathan :
E. Greene, William J. Jenkins, :
Frank P. Lauginiger, David E. :
Majchrzak, Paul E. Cantrell, :
Mirza Cifric, Ian N. Dunn, and :
Michael J. Vinskus :
Application No. 10/291,176 : LETTER
Filed: November 8, 2002 :
Attorney Docket Number: :
0102323-0125 :
Title: WIRELESS COMMUNICATIONS :
SYSTEMS AND METHODS FOR CACHE :
ENABLED MULTIPLE PROCESSOR :
BASED MULTIPLE USER DETECTION :

Dear Mr. Cantrell:

You are named 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 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, the attorney of record 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 (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

UNITED STATES PATENT AND TRADEMARK OFFICE

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Laura A. Majerus
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

APR 2 6 2005

Technology Center 2100

In re Application of:
Ted E. Dunning
Application No. 10/291,210
Filed: November 8, 2002
For: FILE SPLITTING, SCALABLE CODING, AND ASYNCHRONOUS TRANSMISSION IN STREAMED DATA TRANFER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 21, 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

cc: James J. DeCarlo
STROOCK & STROOCK & LAVAN, LLP
180 Maiden Lane
New York, New York 10038-4982

I hereby certify that this correspondence is being delivered by Hand Delivery to: License & Review Branch

On January 21, 2003

By: Annette Masiello
Annette Masiello

PATENT
Docket No.: 16611U-013400US

1460
20-1430

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Daniel S. Kerr et al.

Application No.: 10/291,212

Filed: November 8, 2002

For: METHOD AND SYSTEM FOR NONDESTRUCTIVE INSPECTION OF COMPONENTS

Examiner:

Art Unit: 3641

PETITION FOR LICENSE UNDER 37 CFR §5.14 - CORRESPONDING U.S. APPLICATION

RECEIVED
LICENSING & REVIEW
03 JAN 21 PM 4:09

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 CFR §5.14, Applicants petition for an **Expedited Foreign Filing License** in the above application. A copy of the corresponding U.S. patent application is enclosed.

Please telephone **Annette Masiello at (703) 415-3060** when the license has been granted and is ready for pick-up.

Authorization to charge the required fee to Deposit Account No. 20-1430 for expedited handling of this Petition, and any other fees associated with this Petition, is set forth on the accompanying fee transmittal.

10291212

01/23/2003 DBATES 00000009 201430 10291212
01 FC:1460 130.00 CH

Respectfully submitted,

Dated: 1/17/03

Kevin T. LeMond
Reg. No. 35,933

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
CJK:jtc SF 1424076 v1

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/291,212	1/21/03	DANIEL S. KERR, ET AL.	16611U-013400US

Title:
METHOD AND SYSTEM FOR NONDESTRUCTIVE INSPECTION OF COMPONENTS

Art Unit	Paper Number

Correspondence Address:
KEVIN T. LeMOND
TOWNSEND AND TOWNSEND AND CREW, LLP.
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111-3834

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 530,036

Grant Date: 22-Jan-03

Approved:

for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of :
Kerr, et al. :
Application No. 10/291,212 :
Filed: November 8, 2002 :
Attorney Docket No. 16611U-013400US :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 5, 2005, to withdraw the holding of abandonment and the petition under 37 CFR 1.137(b), filed August 17, 2005, to revive the above-identified application.

A non-final Office action was mailed March 23, 2004. In response, applicant submitted a Notice of Appeal on September 22, 2004. However, applicant was notified on May 20, 2005 that the appeal was dismissed because the appeal brief was not timely submitted and the period for obtaining an extension of time to file the brief had expired. Furthermore, the applicant was notified that the application was abandoned due to the dismissal of the appeal and because there are no allowed claims in the application. Accordingly, this application became abandoned on November 23, 2004.

The petition under 37 CFR 1.181 is dismissed.

Additionally documentary evidence, such as the fax confirmation receipt, is required in order to determine if the correspondence was timely filed. *See* 37 CFR 1.8(c).

The petition under 37 CFR 1.137(b) is granted.

Petitioner submitted a Request For Continued Examination (RCE) on August 17, 2005, with the instant petition. However, the prosecution in the application must be closed before a RCE may be submitted. As the Office action of March 23, 2004 was not final, the submission of a RCE is not an appropriate response at this time since prosecution in the application is not closed. As such, the RCE, filed August 17, 2005 is considered improper. However, a reply to the non-final

Office action was submitted with the improper RCE. The reply, an amendment, will be entered and considered under 37 CFR 1.111.

The file is being forwarded to Technology Center 3600 for review of the amendment filed August 17, 2005, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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ARTHROCARE CORPORATION
7500 RIALTO BOULEVARD
BUILDING TWO, SUITE 100
AUSTIN, TX 78735-8532

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JAN 0 2 2009

OFFICE OF PETITIONS

In re Patent No. 6,920,883	:	
Issue Date. July 26, 2005	:	
Application No. 10/291,213	:	NOTICE
Filed: November 8, 2002	:	
Attorney Docket No. D-11	:	

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) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERIC B. MEYERTONS
MEYERTONS HOOD KIVLIN KOWERT & GOETZEL PC
P.O. BOX 398
AUSTIN, TX 78767-0398

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Garcia et al. :
Application No. 10/291,223 :
Filed: November 8, 2002 :
Attorney Docket Number: :
5259-08400/EBM :

This is a decision in response to the petition under 37 CFR 1.137(b), filed December 8, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." 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 June 3, 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 September 4, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition and asserts that the delay was unintentional. However, the address on the petition is different from the address of record. As such, there is a question of whether petitioner herein was in a position to know whether the delay in filing the required reply to the filing of a grantable petition was unintentional.

Petitioner should file a Request for Reconsideration and explain when petitioner herein became responsible for prosecution of the

application. A statement from a person with first-hand knowledge of the delay should be provided, attesting to the fact that the entire delay from the period that the reply was due to the filing of a grantable petition was unintentional.

Additionally, if Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: ABBOTT LABORATORIES
100 ABBOTT PARK RD., BLDG. AP6A-1
ABBOTT PARK, IL 60064

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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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OFFICE OF PETITIONS

In re Application of	:	
Garcia et al.	:	
Application No.: 10/291,223	:	ON PETITION
Filing or 371(c) Date: 11/08/2002	:	
Attorney Docket Number:	:	
5259-08300US02	:	

This is a decision on the Request for Reconsideration and Renewed Petition Under 37 C.F.R. § 1.137(e), filed November 1, 2006. The petition is properly treated under 37 CFR 1.137(b). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed June 3, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on September 4, 2005. A Notice of Abandonment was mailed September 18, 2005.

Applicant filed a petition on December 8, 2005; however, the petition was dismissed because the address in the petition differed from the address of record. As such, Petitioner was not in a position to know whether the delay in filing the required reply was unintentional.

The instant petition

Applicant files the present petition and a copy of a Power of Attorney and Change of Correspondence Address that was filed on August 23, 2004. A review of Office records confirms that the Power of Attorney and Change of Correspondence Address was filed on August 23, 2004.

Applicant also files a declaration from the attorney of record to the effect that she has been responsible for prosecution of this application since 2003. Accordingly, the petition is granted.

The power of attorney and correspondence address have been entered and made of record.

This application is being referred to Technology Center Art Unit 3733 for processing of the Amendment filed with the December 8, 2005 petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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FEB 2 0 2001
EDWARDS & ANGELL LLP
DIKE BRONSTEIN
ROBERTS CUSHMAN

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CAW 02-01

Paper No. 4

ROBERT L. BUCHANAN, EDWARDS & ANGELL,LLP
DIKE, BRONSTEIN, ROBERTS & CUSHMAN
INTELLECTUAL PROPERTY PRACTICE GROUP
130 WATER STREET
BOSTON, MA 02109

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FEB 1 6 2001

OFFICE OF PETITIONS
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In re Application of
Larsen et al.
Application No. 60/143,591
Filed: 12 July, 1999
Attorney Docket No. --55486-P/(45487)--

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed on 5 January, 2001, requesting that the above-identified application be accorded a filing date of 12 July, 1999, rather than the presently accorded filing date of 13 July, 1999.

Petitioner alleges that the application was deposited in Express Mail service on 12 July, 1999. In support, on 5 January, 2001, petitioner supplied a copy of Express Mail receipt No. EJ445393113US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) date-stamped 12 July, 1999 by the USPS.

In view of the above, the petition is granted.

The application file is being forwarded to Office of Initial Patent Examination for correction of the filing date to 12 July, 1999, and issuance of a corrected Filing Receipt. The application file will then be returned to Files Repository.

Petitioners are reminded that this provisional application expired 12 months from the filing date of 12 July, 1999.[1]

The Revocation and Power of Attorney filed on 29 December, 2000, is accepted. All correspondence will be mailed to the correspondence address indicated in the Revocation and Power of Attorney filed on 29 December, 2000.

[1] 35 U.S.C. § 111(b)(5).

The attorney docket number has been changed as indicated in the correspondence filed with the present petition on 5 January, 2001.

The petition fee of $130.00 will be refunded to counsel's deposit account, No. 04-1105.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ROBERT L. BUCHANAN
EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

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OFFICE OF PETITIONS

In re Application of :
Bjarne Due Larsen et al :
Application No. 10/291,226 :
Filed: November 8, 2002 :
Attorney Docket No. 55511-C (45487)

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.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ALAN J. HOWARTH
P.O. BOX 1909
SANDY, UT 84091-1909

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OFFICE OF PETITIONS

In re Application of
Duane E. Ruffner et al.
Application No. 10/291,230
Filed: November 7, 2002
Attorney Docket No.: T6678.US.A

ON PETITION

This is a decision on the petition filed March 24, 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 3, 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, this application became abandoned September 7, 2005. Accordingly, a Notice of Abandonment was mailed December 21, 2005.

This matter is being referred to Technology Center 1635 for appropriate action on the amendment filed March 24, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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JUN - 3 2005

ALAN J. HOWARTH
P.O. BOX 1909
SANDY UT 84091-1909

In re Application of	:
Duane E. Ruffner et al	:
Serial No.: 10/291,249	: PETITION TO MAKE SPECIAL
Filed: November 7, 2002	:
Attorney Docket No.: T6678.US.B	:

This is in response to the petition filed February 5, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

ALAN HOWARTH
P.O. BOX 1909
SANDY, UT 84091

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In re Application of	:	
Duane E. Ruffner et al	:	
Application No. 10/291,249	:	ON PETITION
Filed: November 7, 2002	:	
Attorney Docket No. T6678.US.B	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 2, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 3, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1635 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 5

PILLSBURY WINTHROP LLP
2550 HANOVER STREET
PALO ALTO CA 94304-1115

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MAR 0 6 2003

OFFICE OF PETITIONS

In re Application of	:
Richard A. Dias	:
Application No. 10/291,254	: DECISION GRANTING
Filed: 8 November, 2002	: PETITION-IN-PART
Attorney Docket No. 024009/0300214	:
(RD-001-D1	:

This is a decision on the petition filed on 30 January, 2003, requesting that above-identified application be accorded a filing date of 8 November, 2002, with Figures 9 & 10 as a part of the original disclosure.

The petition is **GRANTED-IN-PART**.

The application was filed on 8 November, 2002. However, on 16 January, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 8 November, 2002, and advising applicants that Figures 9 & 10 described in the specification appeared to have been omitted from the application.

In response, applicant filed the present petition, a $130.00 petition fee, and copies of drawing Figures 9 & 10. Applicant asserts that Figures 9 & 10 were not omitted from the application. In support, petitioner relies on an Express Mail Certificate and application transmittal letter.[1]

The arguments have been considered, but are not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that five (5) sheets of drawings containing Figures 1-8 and 11 were filed on 8 November, 2002. No Figures 9 & 10 were filed on 8 November, 2002, since no sheet containing such Figures is present among the

[1] It is noted that the application has been accorded a filing date 30 January, 2003, with Figures 9 & 10 as a part of the original disclosure despite petitioner's allegation that Figures 9 & 10 were deposited on 8 November, 2002.

application papers received on that date. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioner believes the page was among the papers he included in the application is not more persuasive than the actual papers shown to have been received by the official file.

At the outset, it is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of section 503 of the Manual of Patent Examining Procedure (MPEP).[2] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is 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.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[3]

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[2]The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

[3]MPEP 503.

Petitioner's arguments have been considered, but are not persuasive. At the outset, petitioners should note that there is no provision in the regulations or the MPEP for use of a "certificate of mailing" by Express Mail.[4] Furthermore, assuming, *arguendo*, petitioners had provided a copy of the Express Mail customer label, such would not serve as persuasive evidence that Figures 9 & 10 were received in the USPTO on 8 November, 2002, because the other application papers filed in the same Express Mail shipment were received on 8 November, 2002. Where there is a dispute as to the contents of correspondence submitted to the Office, an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what documents and or fees were filed in the Office with such correspondence a petition under 37 CFR 1.10 is inappropriate.[5] A petition under 37 CFR 1.10(e) is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office. Lastly, the application transmittal sheet evidences, at best, petitioner's intent to file seven (7) sheets of drawings. Petitioners simply have no persuasive evidence that Figures 9 & 10 were among the application papers received in the USPTO on 8 November, 2002.

Since Figures 9 & 10 are not a part of the papers filed on 8 November, 2002, application cannot be accorded the 8 November, 2002, filing date with Figures 9 & 10 as a part of the original disclosure of this application.

It is noted that the first paragraph of the specification filed with the original application papers states that the present application is a divisional of Application No. 09/822,898, "the contents of which are incorporated herein by reference."

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the

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[4] See 1174 O.G. Pat. Of. 92 (May 16, 1995).

[5] MPEP 513

> continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 9 & 10 described in the specification is not new matter if they were a part of the disclosure of the prior application.

The petition is granted to the extent that the application is accorded a filing date of 8 November, 2002, using the application papers filed on that date. The two sheets of drawings containing Figures 9 & 10 filed with the present petition on 30 January, 2003, will not be entered or used during the prosecution of this application, but will be retained in the application file.

However, applicant may resubmit the sheets of drawings containing Figures 9 & 10 as an amendment for consideration by the examiner under Sections 608.02(p) and 608.04 of the Manual of Patent Examining Procedure.

Accordingly, the "Notice" mailed on 16 January, 2003, was correct in stating that Figures 9 & 10 described in the specification had been omitted. Therefore, the "Notice of Omitted Item(s)" was properly mailed and will not be withdrawn.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **8 November, 2002,** using only the application papers present on that date, and for an indication in Office records that five (5) sheets of drawings were present on filing.

Any 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

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NUVELO
675 ALMANOR AVENUE
SUNNYVALE, CA 94085

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SEP 30 2003

OFFICE OF PETITIONS

In re Application of :
Tom Y. Tang, Chenghua Liu, :
Vinod Asundi, Rui-Hong Chen, : DECISION GRANTING PETITION
Xiaohong B. Qian, Zhi Wei Wang, : UNDER 37 CFR 1.47(a)
Tom Wehrman, Jie Zhang, Ping :
Zhou, Yi-Cheng Cao and Radoje
T. Drmanac
Application No. 10/291,265
Filed: November 8, 2002
Title: NOVEL NUCLEIC ACIDS AND
POLYPEPTIDES

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 22, 2002.

The petition is **granted**.

Petitioner has shown that the non-signing inventor cannot be located.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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YI-CHENG CAO
260 NORTH MATHILDA AVENUE, #E6
SUNNYVALE, CA 94086

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SEP 30 2003

OFFICE OF PETITIONS

In re Application of
Tom Y. Tang, Chenghua Liu, Vinod Asundi, Rui-Hong Chen, Xiaohong B. Qian, Zhi Wei Wang, Tom Wehrman, Jie Zhang, Ping Zhou, Yi-Cheng Cao and Radoje T. Drmanac
Application No. 10/291,265
Filed: November 8, 2002
Title: NOVEL NUCLEIC ACIDS AND POLYPEPTIDES

Dear Yi-Cheng Cao:

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
Petitions Attorney
Office of Petitions

RENEE S. POLIZOTTO
NUVELO
675 ALMANOR AVENUE
SUNNYVALE, CA 94085

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Paper No. 4

Jensen & Puntigam, P.S.
Suite 1020
2033 Sixth Avenue
Seattle, WA 98121

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Eliason et al. :
Application No. 10/291,274 :
Filed: November 8, 2002 :
For: MOUSE PAD ACCESSORY :

DECISION ON PETITION

This is a decision on the petition filed January 10, 2003, requesting, in effect, that Figure 9 filed on January 10, 2003, be entered as part of the original disclosure.

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.

The application was filed on November 8, 2002. On December 11, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 8, 2002, and advising applicants that Figure 9 appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges Figure 9 was filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that Figure 9 was submitted with the original application.

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 ....

While petitioner apparently believes that Figure 9 was filed on November 8, 2002, the file of application No. 10/291,274[1] shows that Figure 9 was not received, since no such papers are present in the file. 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

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations are usually made weeks or months after the actual events recited. Thus, the declaration does not have more probative value than the official government record of what was actual received in the USPTO on November 8, 2002.

It is for this reason that the USPTO has established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO 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 USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioner has only demonstrated an intent to file Figure 9 and has not established that Figure 9 was actually filed. A demonstration of an intent to included a page or pages does not establish the actual receipt of such pages by the Office.

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

Since applicants have not filed a petition under 37 CFR 1.182 requesting January 10, 2002, the date the missing pages were filed, as the filing date, the pages filed on January 10, 2002, will not be entered.

An amendment to the specification deleting references to the missing Figure 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).

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 8, 2002, using only the papers 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

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

Jensen & Puntigam, P.S.
Suite 1020
2033 Sixth Avenue
Seattle, WA 98121

COPY MAILED

APR 2 3 2003

OFFICE OF PETITIONS

In re Application of
Eliason et al.
Application No. 10/291,274
Filed: November 8, 2002
For: MOUSE PAD ACCESSORY

DECISION ON PETITION

This is a decision on the renewed petition filed April 14, 2003, requesting, in effect, that Figure 9 filed on January 10, 2003, be entered as part of the original disclosure.

The petition is **granted**.

The application was filed on November 8, 2002. On December 11, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 8, 2002, and advising applicants that Figure 9 appeared to have been omitted.

Petitioner alleges Figure 9 was filed with the original application. Petitioner has submitted a postcard receipt which acknowledges receipt of 5 sheets of drawings on November 8, 2002.[1] Since the file only contains 4 sheets of drawings, petitioner has established that Figure 9 was filed on November 8, 2002, but was subsequently misplaced in the PTO.

A refund of the petition fee will be scheduled.

The Notice mailed December 11, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 8, 2002, using the application papers filed on November 8, 2002, and the copy of Figure 9 filed on January 10, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DORSEY & WHITNEY LLP
555 CALIFORNIA STREET, SUITE 1000
SUITE 1000
SAN FRANCISCO CA 941

COPY MAILED

MAR 0 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Willard H. WATTENBURG, *et al.*	:	
Application No. 10/291,275	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. A-71134/ENB	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on January 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on May 13, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned, by operation of law, on August 14, 2005. A Notice of Abandonment was mailed on December 13, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply in the form of the argument and amendment under 37 CFR 1.111; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office Action of May 13, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3683 for appropriate action on the concurrently filed amendment.

David Bucci
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
DIW May-07

JAMES LOWELL JORDAN
1971 CAMDEN STREET
RIVERSIDE CA 92506

COPY MAILED

MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
James Lowell Jordan	:	DECISION ON PETITION
Application No. 10/291,277	:	
Filed: 11/12/2002	:	
For: UNIVERSAL COVER	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed on 27 January, 2006.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

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 withdraw the holding of abandonment," or, as discussed below, "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on 25 April, 2005, for failure to timely file a response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 24 March, 2005, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 7 December, 2005.

Petitioner asserts that the Notice mailed on 24 March, 2005, was not received. Specifically petitioner asserts that he "had not received any communication" prior to the mailing of the Notice of Abandonment.

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 Notice was

properly mailed to the address of record. This presumption may be overcome by showing that the Notice was not in fact received.

Petitioner has not met the showing required to establish nonreceipt of an Office communication. To establish nonreceipt of an Office communication, a petitioner must: 1) include a statement that the Office communication was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and 3) include a copy of the **docket record** where the nonreceived Office communication would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record **where the nonreceived Office communication would have been entered had it been received and docketed.**"[2] "For example, if a three-month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted…"[3]

However, as petitioner is a *pro se* applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice mailed on 24 March, 2005, was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner exercised due diligence with respect to petitioner's most important business.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

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[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).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

A courtesy copy of the Notice mailed on 24 March, 2005, has been included for petitioner's use in preparing a reply, should petitioner wish to file a petition to revive the application. Additionally, a copy of the petition to revive form has been enclosed, along with the fee schedule.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cf: Office action mailed on 24 March, 2005
Form for Petition to Revive Under 37 CFR 1.137(b)
Fee Schedule Form

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.
10/291,277	11/12/2002	James Lowell Jordan	Jordan	2678

7590 03/24/2005

James Lowell Jordan
1971 Camden Street
Riverside, CA 92506

EXAMINER
FERGUSON, LAWRENCE D

ART UNIT	PAPER NUMBER
1774	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/291,277	Applicant(s) JORDAN, JAMES LOWELL	
	Examiner Lawrence D. Ferguson	Art Unit 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 12 August 2004 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: _____.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf .

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or a supplemental amendment.

RENA DYE
SUPERVISORY PATENT EXAMINER
A.U. 1774 3/17/05

162

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____	_____
Signature	Date
_____	_____
Typed or printed name	Registration Number, if applicable
_____	_____
Address	Telephone Number
_____	
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____	_____
Date	Signature
	_____
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

REVISED FEE SCHEDULE

H.R. 4818, the Consolidated Appropriations Act, 2005 (Consolidated Appropriations Act) was signed by the President and enacted into law on December 8, 2004 (Public Law 108-447). The Consolidated Appropriations Act revises certain patent application and maintenance fees; provides separate fees for a basic filing fee, a search fee, and an examination fee; and requires an additional fee for any patent application whose specification and drawings exceed 100 sheets of paper (application size fee). In addition, the trademark application fee, per class, is revised if submitted by paper or electronically using the Trademark Electronic Application System (TEAS).

Notices will be published in the *Federal Register* and in the *Official Gazette of the United States Patent and Trademark Office* to provide additional information.

Any fee amount paid on or after December 8, 2004 must be paid as shown in the revised fee schedule, which reflects when the old filing fees still apply. However, fee amounts paid on or after the following dates for the fees below are subject to the revised fee schedule:

- January 31, 2005, for 37 CFR 2.6(a)(1)(i) and (ii); and
- February 1, 2005, for 37 CFR 1.492(b)(1), (b)(2), and (c)(1).

The fee schedule is available on our Web site at *www.uspto.gov*. The most up-to-date fee amounts and information, as well as the complete listing and description of fees, are also available on our Web site. Any future changes to the fees will be posted to the Web site. If you have any questions related to patents and trademarks, please call the USPTO Contact Center at (703) 308-4357 or (800) 786-9199, or by fax at (703) 305-7786.

Jo-Anne Barnard

Jo-Anne Barnard
Chief Financial Officer and
Chief Administrative Officer

UNITED STATES PATENT AND TRADEMARK OFFICE
Effective December 8, 2004*

Any fee amount paid on or after December 8, 2004, must be paid as shown in the revised fee schedule.
The fees subject to reduction for small entities that have established status (37 CFR 1.27) are shown in a separate column.
For additional information, please call the USPTO Contact Center at (703) 308-4357 or (800) 786-9199.

*The effective date for the fee amounts in 37 CFR 2.6(a)(1) is January 31, 2005.
The effective date for the fee amounts in 37 CFR 1.492(b)(1), (b)(2), and (c)(1) is February 1, 2005.

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
Patent Application Filing Fees				
1011/2011	1.16(a)(1)	Basic filing fee - Utility ***filed on or after December 8, 2004***	300.00	150.00
4011†	1.16(a)(1)	Basic filing fee - Utility (electronic filing) ***filed on or after December 8, 2004***	N/A	75.00
1001/2001	1.16(a)(2)	Basic filing fee - Utility ***filed before December 8, 2004***	790.00	395.00
1201/2201	1.16(h)	Independent claims in excess of three	200.00	100.00
1202/2202	1.16(i)	Claims in excess of 20	50.00	25.00
1203/2203	1.16(j)	Multiple dependent claim	360.00	180.00
1051/2051	1.16(f)	Surcharge - Late filing fee or oath or declaration	130.00	65.00
1081/2081	1.16(s)	Utility Application Size Fee - for each additional 50 sheets	250.00	125.00
1012/2012	1.16(b)(1)	Basic filing fee - Design ***filed on or after December 8, 2004***	200.00	100.00
1002/2002	1.16(b)(2)	Basic filing fee - Design ***filed before December 8, 2004***	350.00	175.00
1017/2017	1.16(b)(1)	Basic filing fee - Design (CPA) ***filed on or after December 8, 2004***	200.00	100.00
1007/2007	1.16(b)(2)	Basic filing fee - Design (CPA) ***filed before December 8, 2004***	350.00	175.00
1082/2082	1.16(s)	Design Application Size Fee - for each additional 50 sheets	250.00	125.00
1013/2013	1.16(c)(1)	Basic filing fee - Plant ***filed on or after December 8, 2004***	200.00	100.00
1003/2003	1.16(c)(2)	Basic filing fee - Plant ***filed before December 8, 2004***	550.00	275.00
1083/2083	1.16(s)	Plant Application Size Fee – for each additional 50 sheets	250.00	125.00
1014/2014	1.16(e)(1)	Basic filing fee - Reissue ***filed on or after December 8, 2004***	300.00	150.00
1004/2004	1.16(e)(2)	Basic filing fee - Reissue ***filed before December 8, 2004***	790.00	395.00
1019/2019	1.16(e)(1)	Basic filing fee - Design Reissue (CPA) ***filed on or after December 8, 2004***	300.00	150.00
1009/2009	1.16(e)(2)	Basic filing fee - Design Reissue (CPA) ***filed before December 8, 2004***	790.00	395.00
1204/2204	1.16(h)	Reissue independent claims in excess of three	200.00	100.00
1205/2205	1.16(i)	Reissue claims in excess of 20	50.00	25.00
1084/2084	1.16(s)	Reissue Application Size Fee - for each additional 50 sheets	250.00	125.00
1005/2005	1.16(d)	Provisional application filing fee	200.00	100.00
1085/2085	1.16(s)	Provisional Application Size Fee - for each additional 50 sheets	250.00	125.00
1052/2052	1.16(g)	Surcharge - Late provisional filing fee or cover sheet	50.00	25.00
1053	1.17(i)	Non-English specification	130.00	
Patent Search Fees				
1111/2111	1.16(k)	Utility Search Fee	500.00	250.00
1112/2112	1.16(l)	Design Search Fee	100.00	50.00
1113/2113	1.16(m)	Plant Search Fee	300.00	150.00
1114/2114	1.16(n)	Reissue Search Fee	500.00	250.00
Patent Examination Fees				
1311/2311	1.16(o)	Utility Examination Fee	200.00	100.00
1312/2312	1.16(p)	Design Examination Fee	130.00	65.00
1313/2313	1.16(q)	Plant Examination Fee	160.00	80.00
1314/2314	1.16(r)	Reissue Examination Fee	600.00	300.00
Patent Post-Allowance Fees				
1501/2501	1.18(a)	Utility issue fee	1,400.00	700.00
1502/2502	1.18(b)	Design issue fee	800.00	400.00
1503/2503	1.18(c)	Plant issue fee	1,100.00	550.00
1511/2511	1.18(a)	Reissue issue fee	1,400.00	700.00
1504	1.18(d)	Publication fee for early, voluntary, or normal publication	300.00	
1505	1.18(d)	Publication fee for republication	300.00	

† The 4000 series fee code may be used via EFS at *http://www.uspto.gov/ebc/efs/*.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
Patent Maintenance Fees				
1551/2551	1.20(e)	Due at 3.5 years	900.00	450.00
1552/2552	1.20(f)	Due at 7.5 years	2,300.00	1,150.00
1553/2553	1.20(g)	Due at 11.5 years	3,800.00	1,900.00
	1.20(h)	Surcharge - Late payment within 6 months	130.00	65.00
1557	1.20(i)(1)	Surcharge after expiration - Late payment is unavoidable	700.00	
1558	1.20(i)(2)	Surcharge after expiration - Late payment is unintentional	1,640.00	
Miscellaneous Patent Fees				
1801/2801	1.17(e)	Request for Continued Examination (RCE) (see 37 CFR 1.114)	790.00	395.00
1808	1.17(i)	Processing fee, except in provisional applications	130.00	
1803	1.17(i)	Request for voluntary publication or republication	130.00	
1802	1.17(k)	Request for expedited examination of a design application	900.00	
1804	1.17(n)	Request for publication of SIR - Prior to examiner's action	920.00*	
1805	1.17(o)	Request for publication of SIR - After examiner's action	1,840.00*	
1806	1.17(p)	Submission of an Information Disclosure Statement	180.00	
1807	1.17(q)	Processing fee for provisional applications	50.00	
1809/2809	1.17(r)	Filing a submission after final rejection (see 37 CFR 1.129(a))	790.00	395.00
1810/2810	1.17(s)	For each additional invention to be examined (see 37 CFR 1.129(b))	790.00	395.00
Post Issuance Fees				
1811	1.20(a)	Certificate of correction	100.00	
1812	1.20(c)(1)	Request for ex parte reexamination	2,520.00	
1813	1.20(c)(2)	Request for inter partes reexamination	8,800.00	
1821/2821	1.20(c)(3)	Reexamination independent claims in excess of three	200.00	100.00
1822/2822	1.20(c)(4)	Reexamination claims in excess of 20	50.00	25.00
1814/2814	1.20(d)	Statutory disclaimer	130.00	65.00
Patent Extension of Time Fees				
1251/2251	1.17(a)(1)	Extension for response within first month	120.00	60.00
1252/2252	1.17(a)(2)	Extension for response within second month	450.00	225.00
1253/2253	1.17(a)(3)	Extension for response within third month	1,020.00	510.00
1254/2254	1.17(a)(4)	Extension for response within fourth month	1,590.00	795.00
1255/2255	1.17(a)(5)	Extension for response within fifth month	2,160.00	1,080.00
Patent Appeals/Interference Fees				
1401/2401	41.20(b)(1)	Notice of appeal	500.00	250.00
1402/2402	41.20(b)(2)	Filing a brief in support of an appeal	500.00	250.00
1403/2403	41.20(b)(3)	Request for oral hearing	1,000.00	500.00
Patent Petition Fees				
1462	1.17(f)	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I)	400.00	
1463	1.17(g)	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II)	200.00	
1464	1.17(h)	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III)	130.00	
1451	1.17(j)	Petition to institute a public use proceeding	1,510.00	
1452/2452	1.17(l)	Petition to revive unavoidably abandoned application	500.00	250.00
1453/2453	1.17(m)	Petition to revive unintentionally abandoned application	1,500.00	750.00
1454	1.17(t)	Acceptance of an unintentionally delayed claim for priority	1,370.00	
1455	1.18(e)	Filing an application for patent term adjustment	200.00	
1456	1.18(f)	Request for reinstatement of reduced term	400.00	
1457	1.20(j)(1)	Extension of term of patent	1,120.00	
1458	1.20(j)(2)	Initial application for interim extension (see 37 CFR 1.790)	420.00	
1459	1.20(j)(3)	Subsequent application for interim extension (see 37 CFR 1.790)	220.00	

* Reduced by basic filing fee paid.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee
Trademark Processing Fees*			
6001	2.6(a)(1)(i)	Application for registration, per international class (paper filing)	375.00
7001	2.6(a)(1)(ii)	Application for registration, per international class (electronic filing)	325.00
6002/7002	2.6(a)(2)	Filing an Amendment to Allege Use under § 1(c), per class	100.00
6003/7003	2.6(a)(3)	Filing a Statement of Use under § 1(d)(1), per class	100.00
6004/7004	2.6(a)(4)	Filing a Request for a Six-month Extension of Time for Filing a Statement of Use under § 1(d)(1), per class	150.00
6005/7005	2.6(a)(15)	Petitions to the Director	100.00
6006	2.6(a)(19)	Dividing an application, per new application (file wrapper) created	100.00
6201/7201	2.6(a)(5)	Application for renewal, per class	400.00
6203/7203	2.6(a)(6)	Additional fee for filing renewal application during grace period, per class	100.00
6204	2.6(a)(21)	Correcting a deficiency in a renewal application	100.00
6205/7205	2.6(a)(12)	Filing § 8 affidavit, per class	100.00
6206/7206	2.6(a)(14)	Additional fee for filing § 8 affidavit during grace period, per class	100.00
6207	2.6(a)(20)	Correcting a deficiency in a § 8 affidavit	100.00
6208/7208	2.6(a)(13)	Filing § 15 affidavit, per class	200.00
6210	2.6(a)(7)	Publication of mark under § 12(c), per class	100.00
6211	2.6(a)(8)	Issuing new certificate of registration	100.00
6212	2.6(a)(9)	Certificate of correction, registrant's error	100.00
6213	2.6(a)(10)	Filing disclaimer to registration	100.00
6214	2.6(a)(11)	Filing amendment to registration	100.00
6401/7401	2.6(a)(16)	Petition for cancellation, per class	300.00
6402/7402	2.6(a)(17)	Notice of opposition, per class	300.00
6403/7403	2.6(a)(18)	Ex parte appeal, per class	100.00
Trademark Madrid Protocol Fees*			
6901/7901	7.6(a)(1)	International application based on single application or registration, per class	100.00
6902/7902	7.6(a)(2)	Certifying an International application based on more than one basic application	150.00
6903/7903	7.6(a)(3)	Transmitting a Request to Record an Assignment or restriction under § 7.23 or 7.24	100.00
6904/7904	7.6(a)(4)	Filing a Notice of Replacement, per class	100.00
6905/7905	7.6(a)(5)	Filing an affidavit under § 71 of the Act	100.00
6906/7906	7.6(a)(6)	Surcharge for filing affidavit under § 71 of the Act during grace period, per class	100.00
6907/7907	7.6(a)(7)	Transmitting a subsequent designation	100.00
Trademark Service Fees			
8501	2.6(b)(1)	Printed copy of registered mark, delivery by USPS, USPTO Box, or electronic means	3.00
8503	2.6(b)(4)(i)	Certified copy of registered mark, with title and/or status, regular service	15.00
8504	2.6(b)(4)(ii)	Certified copy of registered mark, with title and/or status, expedited local service	30.00
8507	2.6(b)(2)	Certified copy of trademark application as filed	15.00
8508	2.6(b)(3)	Certified or uncertified copy of trademark-related file wrapper and contents	50.00
8513	2.6(b)(5)	Certified or uncertified copy of trademark document, unless otherwise provided	25.00
8514	2.6(b)(7)	For assignment records, abstracts of title and certification per registration	25.00
8902	2.6(b)(9)	Self-service copy charge, per page	0.25
8521	2.6(b)(6)	Recording trademark assignment, agreement or other paper, first mark per document	40.00
8522	2.6(b)(6)	For second and subsequent marks in the same document	25.00
8523	2.6(b)(10)	Labor charges for services, per hour or fraction thereof	40.00
8524	2.6(b)(11)	Unspecified other services, excluding labor	AT COST
Fastener Quality Act Fees			
6991	2.7(a)	Recordal application fee	20.00
6992	2.7(b)	Renewal application fee	20.00
6993	2.7(c)	Late fee for renewal application	20.00

* The 7000 series fee code (e.g., 7001, 7002, etc.) is used for electronic filings via TEAS, which is available at *www.uspto.gov/teas/*. In addition, the 6000 series fee codes under the Trademark Madrid Protocol Fees are being offered for use as a paper-based filing alternative.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
PCT Fees - National Stage				
1631/2631	1.492(a)	Basic National Stage Fee	300.00	150.00
1641/2641	1.492(b)(1)	National Stage Search Fee - U.S. was the ISA	100.00	50.00
1642/2642	1.492(b)(2)	National Stage Search Fee - search report prepared and provided to USPTO	400.00	200.00
1632/2632	1.492(b)(3)	National Stage Search Fee - all other situations	500.00	250.00
1643/2643	1.492(c)(1)	National Stage Examination Fee - U.S. was IPEA, and all claims satisfy PCT Article 33(1)-(4)	100.00	50.00
1633/2633	1.492(c)(2)	National Stage Examination Fee - all other situations	200.00	100.00
1614/2614	1.492(d)	Claims - extra independent (over three)	200.00	100.00
1615/2615	1.492(e)	Claims - extra total (over 20)	50.00	25.00
1616/2616	1.492(f)	Claims - multiple dependent	360.00	180.00
1681/2681	1.492(j)	National Stage Application Size Fee - for each additional 50 sheets	250.00	125.00
1617/2617	1.492(h)	Oath or declaration after 30 months from priority date	130.00	65.00
1618	1.492(i)	English translation after 30 months from priority date	130.00	
PCT Fees - International Stage				
1601	1.445(a)(1)	Transmittal fee	300.00	
1602	1.445(a)(2)	PCT search fee - no prior U.S. application filed under 35 USC 111(a)	1,000.00	
1603	1.445(a)(2)	PCT search fee - prior U.S. application filed under 35 USC 111(a)	300.00	
1604	1.445(a)(3)	Supplemental search fee per additional invention	1,000.00	
1605	1.482(a)(1)	Preliminary examination fee - U.S. was the ISA	600.00	
1606	1.482(a)(1)	Preliminary examination fee - U.S. was not the ISA	750.00	
1607	1.482(a)(2)	Supplemental examination fee per additional invention	600.00	
1619		Late payment fee	VARIABLE	
1620		Confirmed precautionary designation - confirmation portion	52.00*	
1621		Transmitting application to Intl. Bureau to act as receiving office	300.00	
1624		Confirmed precautionary designation - designation portion	104.00*	
PCT Fees to WIPO or EPO**				
1701		International filing fee (first thirty pages) - PCT Easy	1,053.00	
1702		International filing fee - (first thirty pages)	1,134.00	
1703		Supplemental international filing fee (for each page over thirty)	12.00	
1704		International search (EPO)	1,920.00	
1705		Handling fee	162.00	
1708		International CD applications	4,800.00	
Patent Enrollment Fees				
9001	1.21(a)(1)(i)	Application fee (non-refundable)	40.00	
9003	1.21(a)(2)	Registration to practice or grant limited recognition under § 11.9(b) or (c)	100.00	
9004	1.21(a)(3)	Reinstatement to practice	40.00	
9005	1.21(a)(4)	Certificate of good standing as an attorney or agent	10.00	
9006	1.21(a)(4)	Certificate of good standing as an attorney or agent, suitable for framing	20.00	
9010	1.21(a)(1)(ii)(A)	For test administration by commercial entity	200.00	
9011	1.21(a)(1)(ii)(B)	For test administration by the USPTO.	450.00	
9012	1.21(a)(5)(i)	Review of decision by the Director of Enrollment and Discipline under § 11.2(c)	130.00	
9013	1.21(a)(5)(ii)	Review of decision of the Director of Enrollment and Discipline under § 11.2(d)	130.00	
9014	1.21(a)(10)	Application fee for person disciplined, convicted of a felony or certain misdemeanors	1,600.00	

* PCT fee codes 1620 and 1624 only apply to international applications filed prior to January 1, 2004.

** WIPO and EPO fees subject to periodic change due to fluctuations in exchange rate. Refer to the *Official Gazette of the United States Patent and Trademark Office* for current amounts.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee
Patent Service Fees			
8001	1.19(a)(1)	Printed copy of patent w/o color, delivery by USPS, USPTO Box, or electronic means	3.00
8003	1.19(a)(2)	Printed copy of plant patent in color	15.00
8004	1.19(a)(3)	Color copy of patent (other than plant patent) or SIR containing a color drawing	25.00
8005	1.19(a)(1)	Patent Application Publication (PAP)	3.00
8007	1.19(b)(1)(i)(A)	Copy of patent application as filed	20.00
8008	1.19(b)(1)(i)(B)	Copy of patent-related file wrapper and paper contents of 400 or fewer pages	200.00
8009	1.19(b)(1)(i)(C)	Each additional 100 pages of patent-related file wrapper and (paper) contents, or portion thereof	40.00
8010	1.19(b)(1)(i)(D)	Certification of patent-related file wrapper and (paper) contents	25.00
8011	1.19(b)(1)(ii)(B)	Copy of patent-related file wrapper and contents if provided electronically or on a physical electronic medium as specified in § 1.19(b)(1)(ii)	55.00
8012	1.19(b)(1)(ii)(C)	Each continuing physical electronic medium in single order of § 1.19(b)(1)(ii)(B)	15.00
8041	1.19(b)(2)(i)(A)	Copy of patent-related file wrapper contents, other than as available in § 1.19(b)(1); first physical electronic medium in a single order	55.00
8042	1.19(b)(2)(i)(B)	Each continuing copy of patent-related file wrapper and contents as specified in § 1.19(b)(2)(i)(A)	15.00
8043	1.19(b)(2)(ii)	Copy of patent-related file wrapper contents other than as available in § 1.19(b)(1); provided electronically other than on a physical electronic medium	55.00
8013	1.19(b)(3)	Copy of office records, except copies of applications as filed	25.00
8014	1.19(b)(4)	For assignment records, abstract of title and certification, per patent	25.00
8904	1.19(c)	Library service	50.00
8015	1.19(d)	List of U.S. patents and SIRs in subclass	3.00
8016	1.19(e)	Uncertified statement re status of maintenance fee payments	10.00
8017	1.19(f)	Copy of non-U.S. document	25.00
8050	1.19(g)	Petitions for documents in form other than that provided by this part, or in form other than that generally provided by Director, to be decided in accordance with merits	AT COST
8018	1.21(c)	Disclosure document filing fee	10.00
8019	1.21(d)	Local delivery box rental, annually	50.00
8020	1.21(e)	International type search report	40.00
8902	1.21(g)	Self-service copy charge, per page	0.25
8021	1.21(h)	Recording each patent assignment, agreement or other paper, per property	40.00
8022	1.21(i)	Publication in *Official Gazette*	25.00
8023	1.21(j)	Labor charges for services, per hour or fraction thereof	40.00
8024	1.21(k)	Unspecified other services, excluding labor	AT COST
8025	1.21(l)	Retaining abandoned application	130.00
8026	1.21(n)	Handling fee for incomplete or improper application	130.00
8027	1.296	Handling fee for withdrawal of SIR	130.00

GENERAL FEES

Finance Service Fees			
9201	1.21(b)(1) or 2.6(b)(13)(i)	Establish deposit account	10.00
9202	1.21(b)(2) or 2.6(b)(13)(ii)	Service charge for below minimum balance	25.00
9202	1.21(b)(3)	Service charge for below minimum balance restricted subscription deposit account	25.00
9101	1.21(m) or 2.6(b)(12)	Processing each payment refused or charged back	50.00
Computer Service Fees			
8031/8531		Computer records	AT COST

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070328

DATE : March 28, 2007

TO SPE OF : ART UNIT 3772

SUBJECT : Request for Certificate of Correction on Patent No.: 6,987,209

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 filed 2/21/06 to correct the Assignee has been entered.

SPE: Patricia Bianco Art Unit 3772

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

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Mark Randall	: DECISION ON REQUEST FOR
Patent Number	: 7665021	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/291,311	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 6

MAILED

APR 03 2003

Technology Center 2600

CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91105

In re Application of:
Paul Yurt et al
Application No. 10/291,326
Filed: November 8, 2002
For: **AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed November 8, 2002, under Manual of Patent Examination Procedure §708.02, II: Infringement.

A grantable petition under Manual of Patent Examination Procedure §708.02, II, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;

(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and,

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

#5

Paper No. 6

Bell, Boyd & Lloyd LLC
P.O. Box 1135
Chicago IL 60602

COPY MAILED

MAR 21 2003

OFFICE OF PETITIONS

In re Application of
Wilford
Application No. 10/291,344
Filed: November 8, 2002
Attorney Docket No. 114063-109
For: FLEXIBLE PLASTIC CONTAINER

: DECISION GRANTING
: PETITIONS

This is a decision on the petition filed February 3, 2003 (certificate of mailing date January 27, 2003) under 37 CFR 1.10(c) to accord a filing date of November 8, 2002 to the above identified application, rather than the presently accorded filing date of November 6, 2002. In addition, this decision will address the February 3, 2003 (certificate of mailing date January 27, 2003) deficiency fee payment submitted pursuant to 37 CFR 1.28(c).

PETITION UNDER 37 CFR 1.10(c)

Petitioner requests a November 8, 2002 filing date on the basis that the application was deposited in Express Mail Post Office to Addressee service on November 8, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by Express Mail label no. EU241035818US. The same Express Mail label number is referenced on the original

While Express Mail label no. EU241035818US's "date-in" field is illegible, the USPS Shipping Center Track and Confirm website printout submitted by petitioner indicates that the package bearing the mailing label of EU241035818US was accepted at the Chicago, IL processing center on November 8, 2002.

The evidence presented establishes to the satisfaction of the Commissioner that the application was deposited in Express Mail on November 8, 2002 prior to the last scheduled pickup.

Accordingly, the petition under 37 CFR 1.10(c) is **GRANTED**.

No fee has been or will be charged in connection with this matter.

PETITION UNDER 37 CFR 1.28(c)

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."

On February 3, 2003 (certificate of mailing date January 27, 2003) $370.00 was paid. Petitioner was under the assumption that the basic filing fee was still $740.00. The current basic filing fee is $750.00. A deficiency of **$10.00** was charged to deposit account 02-1818 to cover the deficiency. The excess claims fee submitted with the instant petition was correct.

The petition under 37 CFR 1.28(c) is **GRANTED**. Small entity status will no longer apply.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **November 8, 2002.**

Thereafter, the application will be forwarded toTechnology Center 3700 for examination in due course.

Any inquiries related to this decision 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

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Bentley CHEATHAM et al.	:	
Application No. 10/291,349	:	DECISION ON PETITION
Filed: November 08, 2002	:	
Attorney Docket No. **120157.409**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 08, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed November 09, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 08, 2008.

Petitioner asserts that the Office action dated November 09, 2007 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action, and that the Office action was not properly mailed to the practitioner at the address of record.

Since the Office action was not mailed, the application was not abandoned in fact.

The request for RCE is denied since the Final rejection was not mailed.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

All fees will be credited to petitioner's deposit account.

Telephone inquiries related to this decision should be addressed to the Michelle R. Eason at (571)-272-4231.

This application is being referred to Technology Center AU 1632 for remailing of the Office action by the Examiner in the normal course of business.

Thurman Page
Petitions Examiner
Office of Petitions

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2008 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)	Docket Number 120157.409
Application Number 10/291,349	Filed November 8, 2002
For ADIPOSE TISSUE-DERIVED STROMAL CELLS FOR THE REPAIR OF CORNEAL AND INTRA-ORBITAL DEFECTS AND USES THEREOF	
Art Unit 1632	Examiner Joanne Hama, Ph.D.

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$_____
☐	Two months (37 CFR 1.17(a)(2))	$460	$230	$_____
☒	Three months (37 CFR 1.17(a)(3))	$1050	$525	$525
☐	Four months (37 CFR 1.17(a)(4))	$1640	$820	$_____
☐	Five months (37 CFR 1.17(a)(5))	$2230	$1115	$_____

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge the above fees, or credit any overpayment, to Deposit Account Number 19-1090.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☒ attorney or agent of record. Registration No. 51,909

☐ attorney or agent under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____.

/Carol D. Laherty/	September 8, 2008
Signature	Date
Carol D. Laherty, Ph.D.	206-622-4900
Typed or printed name	Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required.

SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

1230732_1.DOC

Adjustment Date: 03/17/2009 CKHLOK
09/09/2008 INTEFSW 00003018 191090
01 FC:2453 770.00 CR
02 FC:2253 525.00 CR

10291349

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10/29/3449

2 Serial/Patent # 10/291-349

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time			$ 525.00
	Notice of Appeal/Appeal			$
X	Petition			$ 770.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,295.00 ~~0.00~~

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 9 -- 1 0 9 0

10 REASON:

	Overpayment
	Duplicate Payment
	No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Michelle Eason TITLE: Paralegal ~~Petitions Examiner~~

SIGNATURE: Michelle L. Eason PHONE: 571-272-4231

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 3/17/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Commissioner for Patents
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Paper No. 13

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

AIRMAIL

COPY MAILED
AUG 3 0 2004
OFFICE OF PETITIONS

In re Application of :
Paul Lapstun et al :
Application No. 10/291,366 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. NPS036US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2004, 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 November 3, 2003, 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 reply submitted on April 5, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed May 14, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 4, 2004.

The above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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 $110.00 extension of time submitted with the petition on August 12, 2004 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 (703) 305-9282.

The application is being forwarded to Technology Center AU 2675 for processing of the request for continued examination (RCE) 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

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Shiro Suyama, et al.	:	
Application No. 10/291,377	:	ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No.: 04208.0074-02	:	

This is a decision on the petition, filed June 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 November 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 2629 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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William H. Dippert
Wolf, Block, Schorr and Solis-Cohen LLP
250 Park Avenue
New York, NY 10177

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of

LANDA et al.
Application No. 10/291,383
Filed: November 12, 2002
Attorney Docket No. 600204470-7

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 both on March 11, 2005 and June 29, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 4787.

Denise Pothier
Petitions Examiner
Office of Petitions

Cc: HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Benzion Landa et al	:	
Application No. 10/291,384	:	DECISION ON PETITION
Filed: November 12, 2002	:	TO WITHDRAW
Attorney Docket No. 1149/63402	:	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 1, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because 37 CFR 10.40 states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" Additionally, 37 CFR 10.40 states, "i[f] paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because: [. . .]" Reasons a practitioner can permissively withdraw follow the later quotation.

Since the request for withdrawal as attorney or agent submitted on July 1, 2005 provides no reasons for withdrawal, 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 for Withdrawal as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/291,384	11/12/2002	Benzion Landa	1149/63402	3246

22879 7590 07/28/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
DOTE, JANIS L

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
07/28/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

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7-28-08

gm

In re application of	:	
Benzion Landa et al.	:	DECISION
Serial No. 10/291,384	:	DISMISSING
Filed: November 12, 2002	:	PETITION
For: IMAGING APPARATUS AND IMPROVED	:	
TONER THEREFOR	:	

This is a decision on the PETITION TO OVERTURN EXAMINER'S DECISION NOT TO ENTER REPLY BRIEF, filed on December 18, 2007.

A reply brief was filed on July 17, 2007, which was denied entry by the examiner in a communication dated October 12, 2007. The examiner denied entry of the reply brief as being improperly signed.

The instant petition was then filed on December 18, 2007, and is before the Director of Technology Center 1700 for consideration.

The petition requests that the reply brief filed July 17, 2007 be entered.

The petition is DISMISSED given the submission of a corrected reply brief, as explained below.

DECISION

Signature requirements are governed by 37 CFR 10.18:

> § 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.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

Thus each document filed in the USPTO must be properly signed. In the instant case, the transmittal letter accompanying the reply brief was signed, but the reply brief itself was not. The two are separate documents, and the provisions of 37 CFR 10.18(a-d) apply separately to both. Thus the requirement for the reply brief itself to be signed cannot be waived.

Consequently the examiner was correct in holding the reply brief to be non-compliant under 37 CFR 10.18.

While procedures for dealing with an unsigned or improperly signed reply brief are not specifically spelled out in the MPEP, the MPEP does address the procedure for handling both unsigned or improperly signed amendments (714.01(a)) and unsigned appeal briefs (MPEP 1205.03). In both cases, applicant is to be notified that the paper is defective and given a one-month time period in which to ratify the document or submit a correctly signed version thereof.

Likewise in the instant case, applicant should have been notified of the missing signature and given an opportunity to correct this oversight, rather than simply being informed that the reply brief would not be entered, as was done. Reply briefs may at times be refused entry with no opportunity for correction if they are non-compliant under 37 CFR 41.41, but as noted above, applicants are generally to be given an opportunity to correct defects arising under 37 CFR 10.18.

To give applicant the usual opportunity to correct the reply brief and to permit prosecution of the application to advance without further delay, applicant was contacted upon consideration of the instant petition on July 23, 2008. A signed copy of the reply brief was requested and promptly submitted by the applicant, also on July 23, 2008.

The signed reply brief of July 23, 2008 is considered timely and will be entered into the file. The examiner is hereby instructed to consider the July 23, 2008 reply brief and take appropriate action in response thereto, per MPEP 1208(II). The examiner is further instructed to consider the reply brief to be timely filed.

Given that the signed version of the reply brief is entered, applicant's petition to enter the previous unsigned version is DISMISSED as moot.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

HEWLETT PACKARD COMPANY
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FOURTH FLOOR
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Nien	:	
Application No.: 10/291,402	:	NOTICE
Filed: November 12, 2002	:	
Attorney Docket No.: NIEN3017	:	
For: VERTICAL RETRACTABLE BLIND	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed August 6, 2004.

Petitioner has submitted the following: $1,330.00 issue fee; $300.00 publication fee; $370.00 filing fee towards completing the deficiency owed for the filing fee paid on November 12, 2002; and $210.00 extension of time fee towards completing the deficiency owed for the extension of time fee paid on February 24, 2004.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

Petitioner has submitted enough money for the issue fee, the publication fee, and the extension of time fee. However, petitioner has not submitted enough money towards the filing fee. Petitioner has paid $740.00. The current filing fee charge is $770.00. Because the deficiency is based on the amount of the fee due in effect at the time the deficiency is paid in full, petitioner owes $30.00. Pursuant to petitioner's authorization, deposit account no. 02-0200 will be charged $30.00.

Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted**. The change of status to a large entity has been entered and made of record.

This file is being forwarded to Publications Division.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ST. ONGE STEWARD JOHNSTON & REENS
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of :
Lawrence Kunstadt et al :
Application No. 10/291,444 :
Filed: November 8, 2002 :
Attorney Docket No. 03507-P0002C :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 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 the publication fee in a timely manner in reply to the Notice of Allowance mailed January 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 21, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

The application file is being referred to the Office of Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SUSAN M. SCHMITT
PETERS, VERNY, JONES & SCHMITT, LLP
SUITE 230
425 SHERMAN AVENUE
PALO ALTO, CA 94306

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MAR 09 2005

OFFICE OF PETITIONS

In re Application of	:
Mir A. Imran et al	:
Application No. 10/291,449	: DECISION ON PETITION
Filed: November 7, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 4004.10-7	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/847,884.

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 the amendment previously filed on May 1, 2003. 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 Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *Note* 37 CFR 1.121

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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SUSAN M. SCHMITT
PETERS VERNY JONES & SCHMITT, LLP
425 SHERMAN AVENUE, SUITE 230
PALO ALTO, CA 94306

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Mir A. Imran et al :
Application No. 10/291,449 : DECISION ON PETITION
Filed: November 7, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 4004.10-7

This is a decision on the renewed petition filed March 16, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/847,884, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on November 7, 2002, and was pending at the time of filing of the instant petition. A reference to the above-noted prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after

expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center Art Unit 3762.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLR PLAZA
NEW YORK NY 10112

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MAR 0 3 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ken-Ichi Ohta et al :
Application No. 10/291,496 :
Filed: November 12, 2002 :
Attorney Docket No. 00862.001442.1 :

This is a decision on the petition, filed February 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 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 2625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook, et al.	:	
Application No. 10/291,512	:	ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. NPP027US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 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 Office letter mailed June 11, 2004, which set a one (1) month period to reply. Accordingly, this application became abandoned on July 12, 2004. A Notice of Abandonment was mailed on December 23, 2004.

The file is being forwarded to Technology Center 2600 for review of the amendment, filed February 3, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Hariharan et al.	:	
Application No. 10/291,532	:	DECISION GRANTING PETITION
Filed: November 12, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 037003-0291872	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 12, 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 **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified by 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 applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(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 nonprovisional 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 nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 1644 for appropriate action on the amendment filed September 12, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

SPE: N. Norton

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/30/06

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/291,561 Patent No.: 6998062

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: _____

NADINE NORTON 1765 7/31/06

Nadine Norton 1765 — 1765

SPE — **Art Unit**

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393 Darling Street
Balmain, 2041
AUSTRALIA

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Paul Lapstun, et al.	:	
Application No. 10/291,579	:	ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. NPX032US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 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 2600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE ~~I. Smith~~

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/04

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/291,587 Patent No.: 6989911

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: priority docs were submitted in the parent case

Kimberly A. Williams — SPE

2625 — Art Unit

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)
6,619,194	2003-09-16	10291621	2002-11-12	3092-333

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	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2008-07-07
Name	Bruce H. Troxell	Registration Number	26592

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. 6619194
Issue Date: September 16,2003
Application No. 10291621
Filed: November 12,2002
Attorney Docket No. BHT-3092-333

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6739897	2004-05-25	10291623	2002-11-12	BHT-3092-330

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	/Roger H. Chu, Reg. # 52745/	Date (YYYY-MM-DD)	2009-04-03
Name	Roger H. Chu	Registration Number	52745

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. 6739897
Issue Date: May 25,2004
Application No. 10291623
Filed: November 12,2002
Attorney Docket No. BHT-3092-330

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed April 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 April 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 26, 2009

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/291624 Patent No.:7246615

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Danton DeMiller/for Justine Yu — 3771

SPE — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 26, 2009

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/291624 Patent No.:7246615

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

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Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Danton DeMiller/for Justine Yu — 3771

SPE — **Art Unit**

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD.
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

COPY MAILED

OCT 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Lapstun Paul and Kia Silverbrook	:	
Application No. 10/291,660	:	DECISION ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. NPTO18US	:	

This is a decision on the petition treated under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed August 7, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 1.119(a)-(d) for the benefit of priority to prior-filed nonprovisional and foreign applications.

BACKGROUND

A review of the file history of this application discloses that, on filing, this application claimed benefit of priority to Application No. 09/721,826, which was the incorrect application. There is no indication in the record that a proper claim for priority to the correct application, Application No. 09/721,862, was made within the time period specified by 37 CFR 1.78(a)(2)(ii).

Additionally, the declaration for patent application submitted on filing for this application claimed benefit of priority to the following foreign applications: PQ0559, filed May 25, 1999; PQ1313, filed June 30, 1999; PQ3457, filed October 15, 1999; and PQ4392, filed December 1, 1999. However, the claim for benefit of the first three foreign applications was improper since the intermediate application, filed on November 25, 2000, was filed more than one year from the filing date of the foreign applications.

It now appears that the present petition is being filed to additionally claim benefit of priority to nonprovisional Application No. 09/575,129, as set forth in the declaration submitted with the petition.

As it appears that petitioners are now seeking to additionally claim benefit of priority to nonprovisional Application No. 09/575,129 and as the Office did not accept the claim for benefit of priority to the foreign applications, it is appropriate here to treat the present petition under the provisions of both 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) and the petition is so treated.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 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) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 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).

The rule at 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The petition is not accompanied by an amendment, which sets forth the nonprovisional applications to which a claim for benefit of priority is being sought. Petitioner is reminded that the amendment must state the relationship of each application to the prior-filed application. Petitioner is also reminded that it would not be proper to include an incorporation by reference statement in the amendment unless the incorporation by reference statement was present at the time the application was filed. Any amendment filed which improperly includes the incorporation by reference statement will be dismissed. Alternatively, the claim for benefit of priority to the prior-filed applications may also be included in a Supplemental Application Data Sheet, which must be signed in accordance with 37 CFR 1.33(b).

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition treated under 37 CFR 1.55(c) is **DISMISSED**.

The petition fails to comply with item (5) above. In this regard, until the petition is granted with respect to acceptance of the claim for benefit of priority to Application Nos. 09/721,862 and 09/575,129, it would be improper to accept the benefit claim to the foreign applications, since the filing date of these applications is more than 12 months from the prior filed applications.

Any request for reconsideration of this decision must be accompanied by a renewed petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), along with an amendment or executed Supplemental Application Data Sheet which properly sets forth the claim for benefit of the prior-filed applications.

Petitioner is also reminded that a certified copy of the foreign applications must be of record prior to the issuance of this application into a patent. In this regard, in order for a patent issuing on the instant application to obtain the benefit of priority based on priority papers filed in a parent or a related application under 35 U.S.C. § 119(a)-(d), a claim for such foreign priority must be timely made in this application. To satisfy the requirement of 37 CFR 1.55(a)(2) for a certified copy of the foreign application, **applicant may simply identify the application containing the certified copy.**

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) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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MAR 3 1 2008

In re Patent No. 7,299,969	:
Issued: November 27, 2007	: DECISION ON PETITION
Application No. 10/291,660	: UNDER 37 CFR 1.78(a)(3)
Filed: November 11, 2002	:
Attorney Docket No. NT018US	:

This is a decision on the renewed petition filed November 6, 2007, under 37 CFR 1.78(a)(3) and under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications 09/721,862 and 09/575,129, as set forth in the concurrently filed substitute amendment and declaration.

The petition is **DISMISSED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> (2) the surcharge set forth in § 1.17(t); and
> (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment filed November 6, 2007 has been reviewed and is acceptable.

The instant application matured into patent no. 7,182,247 on November 27, 2007 prior to the consideration of the renewed petition under 37 C.F.R. §1.78(a)(3). In such case, submission of a certificate of correction (along with the $100 fee) will be required as a condition for granting the petition under 37 C.F.R. §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
40I Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Rhodes, et al. :
Application No. 10/291,670 : ON PETITION
Filed: November 12, 2002 :
Docket No.: M4065.0107/P107-D :

This decision is in response to the petition for withdrawal of Notice of Omitted Item filed March 20, 2003 in response to the Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed February 5, 2003. This petition is also being treated as a petition to accord the above-identified application a filing date of November 12, 2002.

The application was filed November 12, 2002. The Notice mailed February 5, 2003 by the Office of Initial Patent Examination notified applicant that the application had been accorded a filing date but that the Page 13 of the specification appeared to have been omitted from the application.

Petitioner argues for withdrawal of the Notice on the basis that the application as filed included 40 pages of specification, including Page 13, and has included as proof of mailing and proof of receipt of the item in question a return postcard date stamped by the Office on November 12, 2002 acknowledging receipt of 40 pages of specification. A copy of Page 13 purportedly filed with the application on November 12, 2002 has also been supplied.

The original Page 13 submitted with the application papers has not been located. However, in view of the evidence presented, the Notice is hereby WITHDRAWN and the petition to accord the application a filing date of November 12, 2002 is GRANTED.

Since the original drawing sheets cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

The petition fee of $130.00 submitted with the instant petition is unnecessary. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 12, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

MAR 17 2004

RANDALL C. BROWN
HAYNES 7 BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202-3789

In re Application of	:
Phillip B. Maffetone	:
Serial No.: 10/291,694	: STATUS LETTER
Filed: November 12, 2002	:
Attorney Docket No.: 33984.13	:

This is in response to applicants' attorneys' request, filed February 2, 2004, to withdraw from representation in the above identified application.

There is no record that the above identified attorney or firm is of record in this application. Therefore the request cannot be accommodated.

The request to withdraw is **DISMISSED** as inappropriate.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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)
6641253	2003-11-04	10291705	2002-11-12	PAK14US

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/ks/	Date (YYYY-MM-DD)	2008-02-06
Name	Kia Silverbrook		
Enter Reel and Frame Number		Remove	
Reel Number	013917	Frame Number	0619
Click ADD for additional Reel Number and Frame Number		Add	

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. 6641253
Issue Date: November 4,2003
Application No. 10291705
Filed: November 12,2002
Attorney Docket No. PAK14US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 07-06

Paper No: __

SILVERBROOK
RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU
AUSTRALIA

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Silverbrook, et al.	:	
Application No. 10/291,706	:	DECISION
Filing Date: 12 November, 2002	:	
Attorney Docket No.: PAK15US	:	

This is a decision on the petition filed on 7 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 7 May, 2004, with reply due under a non-extendable deadline on or before 9 August, 2004;
- the application went abandoned after midnight 9 August, 2004;
- it does not appear that the Office mailed a Notice of Abandonment before the instant

petition was filed;

- on 7 June, 2006, Petitioner filed the instant petition (with fee), reply in the form of fees due, and made the statement of unintentional delay–in particular, Petitioner averred that the Office delayed in the processing of the fee check and it was dishonored as stale on presentment.

Office records indicate that the transaction reflecting the non-payment on the check occurred on 30 June, 2004.

Out of an abundance of caution, Petitioners always are reminded that:

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; 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.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(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,

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not

---

or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt,[7] 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.[8]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The record (including the petition filed on 7 June, 2006) does not necessitate a finding that the delay between midnight 9 August, 2004 (date of abandonment), and 7 June, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioners Silverbrook and King when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

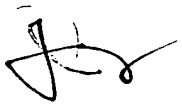
---

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[8] 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.

[9] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6641255	2003-11-04	10291707	2002-11-12	ZF116US

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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/ks/	Date (YYYY-MM-DD)	2008-02-06
Name	Kia Silverbrook		
Enter Reel and Frame Number		Remove	
Reel Number	013488	Frame Number	0866
Click ADD for additional Reel Number and Frame Number		Add	

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. 6641255
Issue Date: November 4,2003
Application No. 10291707
Filed: November 12,2002
Attorney Docket No. ZF116US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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
DIW JUL-05

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NEW SOUTH WALES 2041
AUSTRALIA

COPY MAILED

JUL 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook et al.	:	DECISION ON PETITION
Application No. 10/291,713	:	
Filed: 12 November, 2002	:	
Atty Docket No. NPX034US	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 24 January, 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 decision.

This application became abandoned on 7 July, 2004, for failure to file a timely reply to the final Office action mailed on 6 April,

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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)).

2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 22 November, 2004.

The petition lacks the required reply. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the amendment filed on 24 January, 2005, does not place the case in *prima facie* condition for allowance. An Advisory Action Before the Filing of An Appeal Brief is enclosed for petitioners' information.

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

After 15 July, 2005:

(571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Advisory Action Before the Filing of an Appeal Brief

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. 16

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NEW SOUTH WALES 2041
AUSTRALIA

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook et al.	:	DECISION ON PETITION
Application No. 10/291,713	:	
Filed: 12 November, 2002	:	
Atty Docket No. NPX034US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 5 August, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 7 July, 2004, for failure to file a timely reply to the final Office action mailed on 6 April, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 22 November, 2004. The petition filed on 24 January, 2005, was dismissed on 11 July, 2005.

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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)).

Petitioners have filed a Request for Continued Examination (RCE) and an amendment, which is indicated as the submission required under 37 CFR 1.114.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PATENT & TRADEMARK OFFICE

DOCKET NO. 3802-019-27 CONT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Richard O. SNYDER, et al. ART UNIT: 1636

SERIAL NO.: 10/291,725 EXAMINER: Ramin Akhavan

FILING DATE: November 12, 2002

FOR: RECOMBINANT AAV VECTORS FOR GENE THERAPY OF HEMOPHILIA A

PETITION FOR PRIORITY CLAIM UNDER 35 U.S.C. § 120

MAIL STOP PETITION
COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA, VA 22313-1450

SIR:

I hereby petition to claim priority to the full benefit of the filing date of U.S. Application Serial Number 09/084,425, filed May 27, 1998, pursuant to the provisions of 35 U.S.C. § 120. Applicants respectfully submit that the failure to claim priority to the above-referenced application was unintentional. A duplicate copy of this sheet is enclosed.

a. ☐ The Director is hereby authorized to charge the petition fee under 37 C.F.R. 1.17(h) to Deposit Account No. 50-1442 .

b. ■ Check in the amount of $ 130.00 is enclosed.

c. ☐ Payment by credit card (Form PTO-2038 is enclosed).

Respectfully submitted,

PIPER RUDNICK LLP

Steven B. Kelber
Registration No. 30,073
Attorney of Record

Linda Judge
Registration No. 42,702

11/02/2004 KBETEMA1 00000089 10291725
01 FC:1460 130.00 OP

1200 Nineteenth Street, N.W
Washington, D.C. 20036-2412
Telephone No. (202) 861-3900
Facsimile No. (202) 223-2085

DOCKET NO.: 3802-019-27 CONT

OIPE JC98 NOV 0 1 2004 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Richard O. SNYDER, et al. ART UNIT: 1636

SERIAL NO: 10/291,725 EXAMINER: Ramin Akhavan

FILED: November 12, 2002

FOR: RECOMBINANT AAV VECTORS FOR GENE THERAPY OF HEMOPHILIA A

REQUEST FOR PRIORITY

ASSISTANT COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA, VA 22313-1450

SIR:

■ Full benefit of the filing date of U.S. Application Serial Number 09/084,425, filed May 27, 1998, is claimed pursuant to the provisions of **35 U.S.C. §120**.

□ Full benefit of the filing date of U.S. Provisional Application Serial Number , filed , is claimed pursuant to the provisions of **35 U.S.C. §119(e)**.

□ Applicants claim any right to priority from any earlier filed applications to which they may be entitled pursuant to the provisions of **35 U.S.C. §119**, as noted below.

In the matter of the above-identified application for patent, notice is hereby given that the applicants claim as priority:

COUNTRY	APPLICATION NUMBER	MONTH/DAY/YEAR

Certified copies of the corresponding Convention Application(s)

□ are submitted herewith

□ will be submitted prior to payment of the Final Fee

□ were filed in prior application Serial No. filed

□ were submitted to the International Bureau in PCT Application Number

□ (A) Application Serial No.(s) were filed in prior application Serial No. filed ; and

(B) Application Serial No.(s)

□ are submitted herewith

□ will be submitted prior to payment of the Final Fee

Respectfully submitted,

PIPER RUDNICK LLP

Steven B. Kelber
Registration No.: 30,073

Linda Judge
Registration No.: 42,702

1200 Nineteenth Street, N.W.
Washington, D.C. 20036-2412
Telephone No. (202) 861-3900
Facsimile No. (202) 223-2085

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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STEVEN B. KELBER, ESQ.
PIPER RUDNICK LLP
1200 19TH STREET, N.W.
WASHINGTON, DC 20036

COPY MAILED
JAN 28 2005
OFFICE OF PETITIONS

In re Application of	:	
Richard O. Snyder, et al.	:	
Application No. 10/291,725	:	DECISION ON PETITION
Filed: November 12, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 44463		

This is a decision on the petition, filed November 1, 2004, which is being treated under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/084,425, filed May 27, 1998, 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, 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 items (1) and (2) above.

As to item (1):

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).

As to item (2):

Petitioner submitted a fee of $130.00. The fee required by 37 CFR 1.78(a)(3)(ii) is $1,370. Accordingly, the fee submitted is deficient by $1,240.

This decision is made without prejudice to reconsideration upon the filing of a renewed petition under 37 CFR 1.78(a)(3), accompanied by the $1,240 balance of the fee required by 37 CFR 1.78(a)(3)(ii) and a substitute amendment[1] deleting the incorporation by reference statement.

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

[1] *Note* 37 CFR 1.121

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
Office of the Deputy Commissioner
for Patent Examination Policy

Frances M. 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
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Alexandria, VA 22313-1450
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#5

Paper No. 5

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SEP 15 2003

OFFICE OF PETITIONS

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

In re Application of :
Houghton, et al. :
Application No. 10/291,734 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No.: 002441.00031 :

This decision in response to the petition, filed April 3, 2003 and supplemented September 11, 2003, to accord the above-identified application a filing date of November 12, 2002.

The application was filed November 12, 2002. The Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers ("Notice") January 29, 2003. The Notice indicated, *inter alia*, that the application had been accorded a filing date but that page 169 of the specification appeared to have been omitted from the application filing.

Petitioner argues that the application as deposited included page 169 of the specification. Petitioner has included as proof of mailing and proof of receipt of the page in question a return postcard date stamped by the Office on November 12, 2002. Petitioner has also supplied a copy of page 169 of the specification purportedly filed with the application on November 12, 2002.

The original page 169 of the specification submitted with the application papers has not been located. However, in view of the evidence presented, the Notice is hereby WITHDRAWN IN PART and the petition to accord the application a filing date of November 12, 2002 is GRANTED

Since the original page 169 of the specification cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

The petition fee of $130.00 submitted with the instant petition is unnecessary. A treasury check refund has been requested on petitioner's behalf from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 12, 2002.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/291,743	11/12/2002	Chikashi Okamoto	62758-025	3592

7590 06/02/2010
MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER
LANIER, BENJAMIN E

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
06/02/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Tomoki Tanida
McDermott, Will & Emery
600 13th Street NW
Washington DC 20005-3096

In re Application of: Okamoto, et al. Application No. 10/291,743 Filed: November 12, 2002 For: Control Method and System of Customer Premises Apparatus and Gateway	)))))	**DECISION ON PETITION TO WITHDRAW SPECIES REQUIREMENT UNDER 37 CFR §1.144**

This is a decision on the petition filed March 19, 2010 under 37 C.F.R. §1.144 and 37 C.F.R. §1.181 to withdraw an outstanding species requirement or rejoinder of the withdrawn dependent claims.

The petition is **Granted**.

RELEVANT PROSECUTION HISTORY

September 10, 2008	A species requirement with 4 generic claims and 2 species was mailed out.
October 28, 2008	A provisional election with traverse was made to species 1 and arguments were made about burden on the examiner were made as the claims had four times already been examined.
January 13, 2009	The species requirement was made final as the arguments for no burden were not found persuasive.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.143 states:

> If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the

examiner will at the same time act on the claims to the invention elected.

37 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 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.

37 C.F.R. § 1.181 states:

> (a) Petition may be taken to the Commissioner:
> (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 Commissioner; and
> (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.
> (b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
> (c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 803 states:

> Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).
> If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.
>
> CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS
> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
> (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and
> (B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 821.01 states:

> Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner. 37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, applicant filed a request for reconsideration prior to the petition.

The issue presented in the petition is whether the restriction based on original presentation under 37 C.F.R. § 1.145 is proper under the current regulations and practice.

MPEP § 803 sets forth two criteria for a proper species requirement between patentably distinct inventions: (A) the inventions must be independent or distinct as claimed and (B) there must be a serious burden on the examiner.

A review of the claims from each group indicates that no serious burden is placed on the examiner as the claims have been repeatedly been searched and examined already, therefore, the species requirement is improper.

For the above reasons, the petition is **GRANTED**.

The species requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claims 1-5, 7, 9-13, 15, 17-21, 23-29, 31 and 33-37.

/Tod Swann/
Tod Swann
Special Programs Examiner
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROBERT D. FISH
RUTAN & TUCKER
611 ANTON BLVD 14TH FLOOR
COSTA MESA, CA 92626-1931

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Yiju Zhao et al	:	TO WITHDRAW
Application No. 10/291,753	:	FROM RECORD
Filed: November 12, 2002	:	
Attorney Docket No. 32704-178710	:	

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 30, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert D. Fish on behalf of all attorneys of record who are associated with customer No. 34284.

All attorneys/agents associated with the Customer Number 34284 have been withdrawn.

Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This matter is being referred to Technology Center AU 3738.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: NOVOVASCULAR INC., JODI AKIN
1440 MARIA LANE, SUITE 100
WALNUT CREEK, CA 94596

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)
6811681	2004-11-02	10/291,770	2002-11-12	230466USMF

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)	2009-10-02
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 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
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In re Patent No. 6811681
Issue Date: November 2,2004
Application No. 10291770
Filed: November 12,2002
Attorney Docket No. 230466US23

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 2,2009 ,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 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE, MD 20850

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OFFICE OF PETITIONS

In re Application of
Patrick J. Dillon, et al.
Application No. 10/291,773
Filed: November 12, 2002
Attorney Docket No. PF178P2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2004, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed January 29, 2003, requiring an executed oath or declaration under 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e). A Notice of Abandonment was mailed on January 28, 2004. In response, on April 29, 2004, the present petition was filed, as well as an executed declaration and the requisite surcharge.

The petition is GRANTED.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed April 29, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

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OFFICE OF PETITIONS

In re Patent No. 6,82,9407	:	
Issue Date: 12/07/2004	:	
Application No. 10/291,779	:	ON PETITION
Filing or 371(c) Date: 11/12/2002	:	
Atty. Docket No. 50395-184	:	

This is a decision on the petition for duplicate letters patent, filed September 14, 2006. The petition is properly treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The file record discloses that the instant application matured into U.S. Patent No. 6,657,932 on December 7, 2004. Petitioner, however, contends that the patent was never received.

Petitioner is advised that, upon a proper showing of non-receipt, a duplicate Letters Patent may be issued with no fee. The showing required is the same as set forth in the MPEP 711.03(c), subheading "Petitions to Withdraw the Holding of Abandonment".

The showing required to establish nonreceipt of an Office communication must include

1) a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2) A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. (For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.).

MPEP 711.03(c)

Alternatively, Applicant may file a request for reconsideration, along with the appropriate fee ($400.00).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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600 13th Street, N.W.
Washington DC 20005-3096

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OFFICE OF PETITIONS

In re Patent No. 6,82,9407	:	
Issue Date: 12/07/2004	:	
Application No. 10/291,779	:	ON PETITION
Filing or 371(c) Date: 11/12/2002	:	
Atty. Docket No. 50395-184	:	

This is a decision on the Request for Reconsideration of Petition for Duplicate Letters Patent, filed March 8, 2007. The petition is properly treated under 37 CFR 1.182.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Questions concerning this decision may be directed to the undersigned at 571-232-3232. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Derek L. Woods
Attorney
Office of Petitions

CC: Krystal Paige
South Tower 8th floor, Room C-32 (FAX 571-270-9937)

P E JC200
APR 0 2 2003
PATENT & TRADEMARK OFFICE

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Paper No. ~~8~~ 4

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

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JUL 1 4 2003

OFFICE OF PETITIONS

In re Application of
Barry Schweitzer
Application No. 10/291,797
Filed: November 12, 2002
Attorney Docket No.
004835.00025

DECISION ON PETITION

This is a decision on the petition filed April 2, 2003, requesting that the above-identified application be accorded a filing date of July 25, 2000.

The application was deposited on November 12, 2002. On January 21, 2003, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), stating that the application had been accorded a filing date of November 12, 2002, and advising applicants, inter alia, that Figures 3 and 4 described in the specification appeared to be missing.

In response applicant submits the instant petition and Preliminary Amendment. The petition asserts that no drawing was omitted, but that the Office misinterpreted the reference in the specification to Figure 3 to indicate that there ought to have been a figure labeled Fig. 3, and that the Office misinterpreted the reference in the specification to Figure 4 to indicate that there ought to have been a figure labeled Fig. 4. The Preliminary Amendment amends the reference to Figure 3, to now read Figures 3 and 4, and also amends the reference to Figure 4 to now read Figures 4A and 4B.

Based on the statements made in the petition, which is signed by a registered practitioner, it appears that the references in the specification to Figures 3 and 4 are typographical errors and that no drawing containing Figures 3 and 4 were intended to be filed on November 12, 2002.

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

In this instance, Petitioner elected option (3).

Accordingly, the petition is **GRANTED**.

However, since the application as filed described a Figures 3 and 4, and no drawings labeled Figures 3 and 4 were present on November 12, 2002, the application was prima facie incomplete. See MPEP 506 and 608.01(f). Thus, the petition and the petition fee were necessary to correct applicants' filing error. Therefore, the petition fee will not be refunded.

The application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries specific to 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.

McDermott, Will & Emery, LLP
4370 LaJolla Village Drive
Suite 700
San Diego, CA 92122

COPY MAILED

JAN 20 2006

OFFICE OF PETITIONS

In re Application of	:	
McClelland et al.	:	DECISION ON PETITION
Application No. 10/291,808	:	
Filed: November 7, 2002	:	
Atty Docket No. 11600-008-999	:	

This is a decision on the petition filed December 18, 2005, to revive the above-identified application under 37 CFR 1.137(b).

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)" or, if appropriate, "Petition under 1.181."

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed September 28, 2004[1]. 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 December 28, 2004. A courtesy Notice of Abandonment was mailed on July 14, 2005.

[1] Not September 27, 2004.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the instant petition, petitioner paid the petition fee, and made the required statement of unintentional delay. No terminal disclaimer is required to revive this application under 1.137(b). However, petitioner acknowledges that the required reply was not submitted. In view thereof, the petition must be dismissed.

Petitioner states that the Office action was not received. However, the petition does not include any showing of non-receipt. The burden is on petitioner to make such a showing.

It is noted that the record supports a conclusion that the Office action of September 28, 2004, was mailed to "Jones Day, 222 East 41st St, New York, NY 10017." The record subsequently includes a power of attorney filed May 11, 2004 to the instant attorneys of record. If applicant can make an adequate showing that the Office action was not properly mailed to a correspondence address of record then withdrawal of the holding of abandonment, pursuant to § 1.181 would be appropriate. Otherwise, filing of a renewed petition, which includes the required reply, is warranted. For petitioner's convenience, copies of the papers mailed September 28, 2004 are being enclosed.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosures: copy of Office action mailed September 28, 2004, and 1449 initialled September 22, 2004 by the examiner.

UNITED STATES 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.

McDermott, Will & Emery, LLP
4370 LaJolla Village Drive
Suite 700
San Diego, CA 92122

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MAY 1 5 2006

OFFICE OF PETITIONS

In re Application of	:	
McClelland et al.	:	DECISION ON PETITION
Application No. 10/291,808	:	
Filed: November 7, 2002	:	
Atty Docket No. 11600-008-999	:	

This is a decision on the RENEWED PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b), filed March 16, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned effective December 29, 2004 for failure to timely file a proper response to the non-final Office action mailed September 28, 2004. By decision mailed January 20, 2006, the initial petition filed December 18, 2005 was dismissed for failure to include the reply required to the outstanding Office action.

On instant renewed petition, timely filed within 2 months of the mailing of the dismissal, applicants supplied the required reply. Applicants have now met all requirements for revival pursuant to 1.137(b).

It is noted that there was an error in the decision mailed … to the extent that it stated that the record includes a power of attorney filed May 11, 2004 to the instant attorneys of record, rather than May 11, 2005. This typographical error is of no consequence to the original dismissal decision.

Technology Center AU 1637 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed March 16, 2006.

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. None

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

JAN 30 2007

OFFICE OF PETITIONS

In re Application of David J. Langton et al. Application No. 10/291,810 Filed: November 8, 2002 Attorney Docket No. 7542.192US01 Title: TREATED PAPER PRODUCT, COMBINATION FOOD AND TREATED PAPER PRODUCT, AND METHODS FOR MANUFACTURING AND USING TREATED PAPER PRODUCT	DECISION ON TWO PETITIONS UNDER 37 C.F.R. §§ 1.48(B) and 1.182

This is a decision on the petitions under 37 C.F.R. §§1.48(b) to delete two inventors and 1.182, to change the order of the remaining inventors. Both petitions were filed concurrently on October 5, 2006.

The petition under 37 C.F.R. §1.48(b):

Petitioner's representative has submitted a request, signed by a patent practitioner of record, to correct the inventorship that identifies the named inventors being deleted (Messrs. Theisen and Unruh) and acknowledges that the inventors' invention is no longer being claimed in this nonprovisional application. Petitioner's representative has further included the required processing fee.

As such, the petition under 37 C.F.R. §1.48(b) is hereby **GRANTED**.

The petition under 37 C.F.R. §1.48(b):

Petitioner's representative has submitted the petition fee along with an Application Data Sheet (ADS), showing the order of the inventors' names which Petitioner's representative prefers.

The petition is **GRANTED**.

The order of the names of the inventors has been changed as follows:

David J. Langton
Susan L. Feit
Michael A. Orlovsky
Mark J. Weber
John J. Blanz
Lisa R. Schultz

A filing receipt reflecting this change is enclosed.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Corrected Filing Receipt

---

1 Petitioner's representative 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's representative is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner's representative.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 7, 2006

TO SPE OF : ART UNIT 2676

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/291854 Patent No.: 6,956,585

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: Certificate of Correction dated 5/30/06 is approved. MR

Matthew C. Bella

MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2624
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
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Alexandria, VA 22313-1450
www.uspto.gov

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, NW
WASHINGTON DC 20037

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JUN 16 2008

In re Patent No. 7118555	:	
Issue Date: 10/10/2006	:	
Application Number: 10/291857	:	NOTICE
Filing or 371(c) Date: 11/08/2002	:	
Attorney Docket Number: 337348001US3	:	

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) 272-3231.

D Wood
Douglas I. Wood
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 PA
P O BOX 2938
MINNEAPOLIS, MN 55402

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JUL 1 3 2004

OFFICE OF PETITIONS

In re Application of
Martin E. Davis et al
Application No. 10/291,860
Filed: November 8, 2002
Attorney Docket No. 267.014US2

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND 37 CFR 1.78(a)(6)

This a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed provisional and nonprovisional applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on November 8, 2002 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the

instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 1654 for appropriate action on the amendment submitted June 7, 2004, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) and 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (5) for the benefit of the prior-filed nonprovisional and provisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 12

RYAN KROMHOLZ & MANION SC
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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SEP 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
David S. Utley et al	:	
Application No. 10/291,862	:	DECISION ON PETITION
Filed: November 8, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9222.17939	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on November 8, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. 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 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 nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3739 for appropriate action on the amendment filed August 16, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL

Paper No. 5

JUN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OPPENHEIMER WOLFF & DONNELLY
P. O. BOX 10356
PALO ALTO CA 94303

In re Application of
Mehra et al.
Application No. 10/291,865
Filed: November 7, 2002
For: METHOD AND APPARATUS FOR CLUSTER INTERCONNECTION USING MULTI-PORT NODES AND MULTIPLE ROUTING FABRICS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys of record including those associated with Customer No. 25,696 are granted the request for withdraw of attorney/agent.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

For Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400
ATTN: BILL STREETER

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 14 2005

OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of	:	
Shuzo Watanabe	:	
Application No. 10/291,896	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. P/2850-62	:	

This is a decision on the petition, filed January 12, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application filed November 4, 2004.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The application will be referred to Files Repository.

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
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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FEB 22 2007

OFFICE OF PETITIONS

In re Patent No. 6,969,507	:	
Weisskoff, et al.	:	DECISION ON REQUEST
Issue Date: November 29, 2005	:	FOR RECONSIDERATION OF
Application No. 10/291,900	:	PATENT TERM ADJUSTMENT
Filed: November 8, 2002	:	and
Attorney Docket No. 13498-023002/	:	NOTICE OF INTENT TO ISSUE
MET-10/DIV	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(D)" filed January 30, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be increased from 117 days to 124 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred twenty-four(124) days.

On November 29, 2005, the above-identified application matured into U.S. Patent No.6,969,507. The instant request for reconsideration filed January 30, 2006 (certificate of mailing date January 26, 2006) was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 117 days. This revised determination was calculated as follows: The PTO mailed a

delayed 14 month first non-final Office action that resulted in 263 days of PTO delay. The amount of office delay was decreased by 63 days due to applicant's delay in responding to the non-final Office action. The amount of Office delay was further decreased by 113 days for applicant's filing of a 312 amendment after the mailing of a Notice of Allowance on April 13, 2005. The amount of Office delay was increased by 37 days for Office delay in issuing the patent. These calculations are not disputed by patentees.

Patentees take issue with the 7 day decrease in Office delay based on applicant's alleged filing of a supplemental paper - oath or declaration on June 23, 2005 after the mailing of a Notice of Allowance on April 13, 2005.

Patentees contend that no oath of declaration was filed on June 23, 2005. Rather, patentees filed a statement regarding loss of small entity status and therefore, there should have been no reduction for its filing after the mailing of the Notice of Allowance. (It is noted that small entity status has been removed from this application.)

Patentees contend that a statement regarding loss of small entity status is a submission after a Notice of Allowance that is <u>not</u> considered a failure to engage in reasonable efforts to conclude processing or examination of an application, in accordance with the "Clarification of 37 C.F.R. §1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance Has Been Mailed," 1247 OG 111 (June 27, 2001).

Patentees' contention is well taken. As paraphrased from MPEP 2732:

> Submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the

submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

It is concluded that the filing of a statement regarding loss of small entity status should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). The reduction of 7 days is being removed.

In view thereof, the patent term adjustment indicated on the patent should be one hundred twenty-four (124) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED TWENTY-FOUR (124) 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 : 6,969,507 B2

DATED : November 29, 2005

INVENTOR(S) : Robert M. Weisskoff, 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 (117) days

Delete the phrase "by 117" and insert – by 124 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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AUG 1 9 2004
OFFICE OF PETITIONS

In re Application of :
Paul A. Farrar, et al. :
Application No. 10/291,909 :
Filed: November 8, 2002 :
Attorney Docket No. MICRON.258A :

ON PETITION

This is a decision on the petition, filed August 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 23, 2004, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated June 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2814 for further processing of the request for continued examination under 37 CFR 1.114 filed August 13, 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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APR 0 5 2005

ATTORNEY DOCKET NO.: JC-8339-CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
CHIH-JUNG WANG; TONG-YU CHEN.

Serial No.: 10/291,911

Filed: NOVEMBER 13, 2002

For: METHOD FOR FORMING OPENINGS IN LOW DIELECTRIC CONSTANT MATERIAL LAYER

Group Art Unit: 1765

Examiner: TRAN, BINH X

25864
PATENT TRADEMARK OFFICE

Approved 7/19/05
Jacqueline M. Stone, Director
Technology Center 1700

NOTICE OF DISASSOCIATION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Please dissociate the following patent attorneys from this case:

Belinda Lee Reg. No. 46,863	Jiawei Huang Reg. No. 43,330
Clement Chang Reg. No. 45,463	Maria Erlinda C. Sarno Reg. No. 37,436

Dated: August 5, 2004

Respectfully submitted,

Charles C.H. Wu
Reg. No. 39,081
Attorney for Applicant

WU & CHEUNG, LLP
98 DISCOVERY
IRVINE, CALIFORNIA 92618-3105
Tel: (949) 251-0111
Fax: (949) 251-1588
e-mail: cchwu@earthlink.net
USPTO CUSTOMER NO.: 25864

PAGE 2/3 * RCVD AT 4/5/2005 8:46:05 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:949 251 1588 * DURATION (mm-ss):01-00

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JIMMY L. FUNKE
DELPHI TECHNOLOGIES, INC.
Legal Staff Mail Code: CT10C
P.O. Box 9005
Kokomo IN 46904-9005

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APR 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Zhang, et al.	:	
Application No. 10/291,913	:	DECISION ON PETITION
Filed: November 11, 2002	:	UNDER 37 CFR 1.181
Attorney Docket No. DP-308723	:	
For: DROWSINESS DETECTION SYSTEM AND METHOD		

This is a decision on the petition under 37 CFR 1.181, filed November 3, 2004 and resubmitted on March 31, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicants' alleged failure to reply within three months to the non-final Office action, mailed January 8, 2004. The Office contended that this application became abandoned on April 9, 2004. A Notice of Abandonment was mailed on October 29, 2004.

Petitioners assert that a reply was timely received in the Office on January 30, 2004. In support of this assertion, petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing January 30, 2004 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a 12 page amendment.

The return postcard constitutes *prima facie* evidence that the items listed thereon, including a 12 page amendment, were received in the Office on January 30, 2004. MPEP 503. Petitioners have provided a copy of the January 30, 2004 (certificate of mailing date January 27, 2004) correspondence. Accordingly, the petition to withdraw the holding of abandonment is granted.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being

mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 2612 for consideration of the amendment filed on January 30, 2004 (certificate of mailing date January 27, 2004) and resubmitted with the instant petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: PRICE, HENEVELD, COOPER
DEWITT & LITTON, LLP
695 KENMOOR, S.E.
POST OFFICE BOX 2567
GRAND RAPIDS, MI 49501

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/291,915	11/08/2002	Mark Muscato	D/A0020D

CONFIRMATION NO.
5712

Patent Documentation Center
Xerox Corporation
Xerox Square 20th Floor
100 Clinton Ave. S.
Rochester NY 14644

Date Mailed: September 21, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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MELVIN K SILVERMAN
SUITE 500
500 WEST CYPRESS CREEK ROAD
FORT LAUDERDALE, FL 33309

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JUN 06 2008

OFFICE OF PETITIONS

In re Application of :
Krishnan Rasmu, et al. :
Application No. 10/291,925 :
Filed: November 8, 2002 :
Attorney Docket No. 1215.13 :

ON PETITION

This is a decision in response to the petition, filed September 7, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal 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)(II)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment was included with the petition filed on September 7, 2007. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition

[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.

for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/291,925	Applicant(s) RAMU ET AL.	
	Examiner ROBERT J. MCCARRY JR	Art Unit 3617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/R. J. McCarry Jr./
Examiner, Art Unit 3617

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500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE, FL 33309

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OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Krishnan Ramu, et al.	:	
Application No. 10/291,925	:	ON PETITION
Filed: November 8, 2002	:	
Attorney Docket No. 1215.13	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 7, 2006. A Notice of Abandonment was mailed on February 8, 2007. On September 7, 2007 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed June 6, 2008. In response, on July 16, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, (2) the petition fee of $750, and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3617 for processing of the RCE submitted on July 16, 2008 in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of
Robert M. Abrams, et al.
Application No. 10/291,930
Filed: November 11, 2002
Attorney Docket No.: 01035.0038-13

ON PETITION

This is a decision on the petition, filed August 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 10, 2004, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1742 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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NOV 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Don Kain	:	
Application No. 10/291,957	:	DECISION ON PETITION
Filed: November 9, 2002	:	
Attorney Docket No. WDGD.001A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 9, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 10, 2006. A Notice of Abandonment was mailed on July 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of December 9, 2005 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such

inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 3637 for appropriate action in the normal course of business on the reply received May 8, 2007.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/291,957	11/09/2002	Don Kain	0439.005

CONFIRMATION NO. 4181

POWER OF ATTORNEY NOTICE

MARSHALL E. ROSENBERG EAQ,
REGISTERED PATENT ATTORNEY
P.O. BOX 966
WOODLAND HILLS, CA 91365-0966

OC000000026840606

Date Mailed: 11/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/11/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/fmhicks/

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG 17 2004

MOORE, HANSEN & SUMNER, PLLP
225 SOUTH SIXTH ST
MINNEAPOLIS MN 55402

In re Application of	:	
Karol L. Nowakowski et al	:	
Application No: 10/291,965	:	WTHDRAWAL
Filed: November 12, 2002	:	FROM ISSUE
Title: Clotting Cascade Initiating Apparatus and	:	
Methods of Use	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 C.F.R. 1.313.

The application is being withdrawn to permit reopening of prosecution due to unpatentability of one or more claims. See 37CFR 1.313(b)(3).

PTO records reveal that the issue fee has not been paid. If the fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the Examiner for action.

John E. Kittle
Director
Technology Center 3700/2900

#6
DW

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APR 26 2004

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APR 26 2004

OFFICE OF THE DIRECTOR
TC 3600

MERCHANT & GOULD, P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903

In re application of Thomas G. Balkins et al. Application No. 10/291,967 Filed: November 12, 2002 For: LIFTING AND MOVING APPARATUS FOR A VEHICLE BED	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on April 19, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Sorge indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/vdb: 4/20/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 5/8/06

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/291969 Patent No.: 7003346

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

SPE

3735

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark C

15 JAN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Priscilla L. Ferguson
Carstens, Yee & Cahoon, LLP
P.O. Box 802334
Dallas, TX 75380

In re Application of	:	
COLMER, et al.	:	DECISION ON PETITION
Application No.: 10/291,984	:	
Filing Date: 12 November 2002	:	UNDER 37 CFR 1.182
Atty. Docket No.: CPAGE.00002	:	
For: RADIO RECEIVER	:	

This is a decision on applicant's "Petition to Convert a National Application Filed Under 35 U.S.C. § 111(a) to a National Stage Application 35 § U.S.C. 371" filed on 30 April 2003 and again by facsimile on 28 August 2003 in the United States Patent and Trademark Office (USPTO). The $130 petition fee has been paid.

BACKGROUND

On 14 May 2001, applicant filed international application PCT/GB01/02107, which claimed priority of an earlier British application filed 12 May 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 12 November 2002.

On 12 November 2002, applicant filed a utility patent application transmittal letter in the United States, which was accompanied by, *inter alia*,: $740 basic filing fee, an unsigned declaration and a "Preliminary Amendment." The application was processed as a filing under 35 U.S.C. 111(a).

On 10 January 2003, applicant was mailed a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION.

On 15 April 2003, applicant filed a response including an executed declaration.

On 30 April 2003, applicant filed the present petition to convert pursuant to 37 CFR 1.182.

On 28 August 2003, applicant re-filed the petition by facsimile.

DISCUSSION

Applicant's transmittal letter filed 12 November 2002 did not request treatment under 35 U.S.C. 371 but rather was for a new nonprovisional application under 37 CFR 1.53(b). The

declaration filed 12 November 2002 however, did identify PCT International Application number PCT/GB01/02107. Thus, it was unclear what type of application applicant was intending to file. Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). (See 37 CFR 1.494(f) and 37 CFR 1.495(g)). In addition, section 1893.03(a), page 1800-114 of the MPEP states that "[i]f there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a)." As such, the application was properly treated as an application under 35 U.S.C. 111 and 37 CFR 1.53.

Furthermore, U.S. statutes and regulations do not make specific provision for the requested action and as such, the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (i.e., the loss of patent rights) where no other remedy is available.

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, if this application (Application No. 10/291,984) and the international application (PCT/GB01/02107) designating the United States were copending on 12 November 2002. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is a continuation of international application PCT/GB01/02107), filed 14 May 2001 which designated the United States and is now abandoned."

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau for the national stage cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

In addition, applicant is advised that it is possible to revive the present international application in the National Stage in the United States pursuant to 37 CFR 1.137(b). This advice should not be construed as a statement as to whether said petition will be granted.

CONCLUSION

The petition to convert the application from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

09 JAN 2004

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Cartens Yee & Cahoon, LLP
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Dallas, TX 75380

In re Application of Brennan	:	
U.S. Application No.: 10/291,988	:	
Attorney Docket No.: CPAGE.00001	:	DECISION
For: DIGITAL AUDIO PROCESSING	:	

This is in response to applicant's "Petition to Convert a National Application Filed Under 35 U.S.C. § 111(a) to a National Stage Application Filed Under 35 U.S.C. § 371" filed 30 April 2003.

BACKGROUND

On 12 November 2002, applicant submitted application papers in the USPTO including, *inter alia*, a Utility Patent Application Transmittal (Form PTO/SB/05).

On 30 April 2003, applicant filed the present petition to convert the application to a national stage application under 35 U.S.C. 371.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official USPTO 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.

In the present case, Form PTO/SB/05 clearly indicates that applicant intended to file a national application under 35 U.S.C. 111(a). Specifically, Form PTO/SB/05 states that the application is being submitted under 37 CFR 1.53(b). MPEP 201.06(c) states in relevant part, "37 CFR 1.53(b) is the section under which all applications are filed EXCEPT: (1) an application resulting from entry of an international application into the national stage under 35 U.S.C. 371 and 37 CFR 1.494 or 37 CFR 1.495. . . ." Thus, the papers filed 12 November 2002 were properly treated as a filing under 35 U.S.C. 111(a).

U.S. statutes and regulations do not make specific provision for the requested conversion and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the present case, applicant has failed to make such a showing.

CONCLUSION

For the reasons above, the petition is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STEVEN L CONLEY
307 SOUTH CENTER
CONWAY AR 72034

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JUL 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Steven Level Conley	:	
Application No. 10/292,004	:	ON PETITION
Filed: November 1, 2002	:	
Title: Conley Mattress Connection Pad	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 5, 2006.

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 October 6, 2003. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on January 7, 2004. A Notice of Abandonment was mailed on April 29, 2004.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an amendment, and made the proper statement of unintentional delay.

Receipt of the $750 petition fee is acknowledged.

The application file is being forwarded to Group Art Unit 3673 for consideration of the amendment filed May 5, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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JAN 24 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of
Serafin E. Garcia, et al.
Application No. 10/292,031
Filed: November 11, 2002
Attorney Docket No. 42P6373C

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 1, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before August 31, 2005. A Notice of Abandonment was mailed on October 12, 2005. Receipt is acknowledged of the requisite issue/publication fee on November 1, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

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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Rabindra K. Sinha
609 Hancock Court
McKees Rocks, PA 15136-1167

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FEB 07 2006

OFFICE OF PETITIONS

In re Application of
Rabindra K. Sinha
Application No. 10/292,078
Filed: November 12, 2002
Title: In-situ generation of special sorbents in combustion gases for the removal of mercury and other pollutants present in them

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2005, to revive the above-identified application.

This application became abandoned for failure to submit a proper reply to the final Office action mailed on March 11, 2005, which set a three-month shortened statutory period to respond. On May 31, 2005, petitioner filed a timely amendment in response to the final Office action. On July 27, 2005, the examiner mailed an Advisory action, stating that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, the application became abandoned on June 12, 2005. A Notice of Abandonment was mailed on October 7, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an RCE and a previously filed amendment, made the proper statement of unintentional delay, and paid the requisite fees. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 1754.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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HOLLINGSWORTH & FUNK, LLC
SUITE 125
8009 34TH AVENUE SOUTH
MINNEAPOLIS, MN 55425

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
Oskari Koskimies :
Application No. 10/292,086 : ON PETITION
Filed: November 11, 2002 :
Attorney Docket No. KOLS.012PA

This is a decision on the petition, filed November 27, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 26, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2154 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Vahe Bedian	: DECISION ON REQUEST FOR
Patent Number	: 7288251	: RECALCULATION of PATENT
Issue Date	: 10/30/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/292,088	: OF WYETH
Filed	: 11/08/2002	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 25, 2006

TO SPE OF : ART UNIT 1624 James O. Wilson

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/292,093 Patent No.: 7074921 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**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

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: _____

Joseph K. McKane
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
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Paper No. 11

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NEW ORLEANS LA 70139

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JUL 17 2003

OFFICE OF PETITIONS

In re Application of
Nicolas G. Bazan et al
Application No. 10/292,105
Filed: November 12, 2002
Attorney Docket No. 7332-1

ON PETITION

This is a decision on the petition, filed by facsimile transmission on July 17, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 10, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1617 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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JJGJr: 06-05

Paper No: __

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4940 MUNSON STREET, NW
CANTON OH 44718-3615

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JUN 21 2005
OFFICE OF PETITIONS

In re Application of	:	
Sherman, et al.	:	
Application No. 10/292,106	:	NOTICE
Filed: 12 November, 2002	:	
Attorney Docket No. 1423-WW-CONT	:	

This is a notice regarding the request for acceptance of a fee deficiency submission (properly considered under 37 C.F.R. §1.28) filed 22 October, 2004.

The Office regrets the delay in addressing this matter.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. §1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 C.F.R. §1.28 hereby is **ACCEPTED**

This file is released to OIPE for further processing as necessary.

Inquiries regarding this application should be directed to the Technology Center. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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MAILED

MAY 18 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Stanley H. Kremen
4 Lenape Lane
East Brunswick, NJ 08816

In re Application of	:	
Stanley H. Kremen	:	
Application No. 10/292,137	:	DECISION ON PETITION
Filed: November 12, 2002	:	TO MAKE SPECIAL
For: SYSTEM AND APPARATUS FOR	:	
RECORDING AND PROJECTING 3-	:	
DIMENSIONAL IMAGES		

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed March 24, 2005 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

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.

The petition meets the requirements set forth above.

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