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APR 22 2005

Robert J. Tosti
Edwards & Angell, LLP
P.O. Box 55874
Boston, MA 02205

In re Application of Robert Sixto, Jr., et al Serial No. : 10/292,162 Filed : November 12, 2002 For : Electrosurgical Tissue Removal with a Selectively Insulated Electrode	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's request filed March 10, 2005, to review the holding of abandonment mailed February 24, 2005 for failure to file a proper response to the Office action mailed June 14, 2004. There is no fee required for this petition.

The reason given in the Notice of Abandonment for the abandonment of the instant application is that the reply received on December 2, 2004 did not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection mailed June 14, 2004. The reply received December 2, 2004 was a Notice of Appeal (with appeal fee). As correctly pointed out by requester, under 37 CFR 1.113, a proper reply "to a final rejection consists only of: (1)...; (2) a timely filed Notice of Appeal (with appeal fee); or (3)... ." Clearly, the reply, a Notice of Appeal, was a proper response to the final rejection. As to the timeliness issue of the filing of the Notice of Appeal, it is noted that a response to the final rejection was filed on August 16, 2004, within two-months from the mailing date of the final rejection (the 14th of August fell on a Saturday). An Advisory Action was mailed on November 2, 2004. As the response was filed within two months from the date of the final rejection, the Advisory Action properly informed applicants that any extension of time request and fee under 37 CFR 1.17(a) were to be calculated from the mailing date of the Advisory Action. Thus, the Notice of Appeal filed December 2, 2004 required a one-month extension of time to make it timely. A one-month extension of time request and appropriate fee did accompany the Notice of Appeal. Thus, the Notice of Appeal is deemed to have been timely filed.

Once a Notice of Appeal is filed, a brief with the appropriate fee must be filed within two months from the date of the Notice of Appeal (37 CFR 41.37(a)(1)). The time period to file the brief is extendable under the provisions of 37 CFR 1.136 – see 37 CFR 41.37(e). Thus, the Brief received February 23, 2005, which brief was accompanied with a request for a one-month extension of time request was also timely filed.

In view of the above, the Notice of Abandonment mailed February 24, 2005 is in error as a proper and timely reply was filed, 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 Brief received February 23, 2005 and processing of the Revocation of Power of Attorney filed March 22, 2005.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/04/14/05

UNITED STATES PATENT AND TRADEMARK OFFICE

4-18-08

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7,349,054B2
Ser. No. : 10/292,167
Inventor(s) : Satoshi Kohtaka
Issued : Mar. 25, 08
Title : METHOD OF MOUNTING FLEXIBLE CIRCUIT BOARDS, AND DISPLAY DEVICE
Docket No. : 542-007.010

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 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 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
40l Dulany Street
Alexandria, VA 22314

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Ware Fressola Van Der Sluys
& Adolphson, LLP
Bradford Green, Building 5
755 Main Street, P.O. Box 224
Monroe CT 06468

ej

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Alexandria, VA 22313-1450
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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET P O BOX 224
MONROE CT 06468

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DEC 1 0 2008

OFFICE OF PETITIONS

In re Patent No. 7,349,054	:	
Issue Date: March 25, 2008	:	
Application No. 10/292,167	:	DECISION ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. 542-007.010	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION", filed October 14, 2008.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

The $100 fee for the Certificate of Correction and the $130 processing fee set forth in 37 CFR 1.17(i) have been charged to Deposit Account No. 23-0442.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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SHELL OIL COMPANY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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OFFICE OF PETITIONS

In re Application of :
De Jonge, et al. :
Application No. 10/292,172 :
Filed: November 12, 2002 :
Attorney Docket No. TS-1067 (US) YGT:SWT :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before July 15, 2005. Accordingly, this application became abandoned on July 16, 2005.

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
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

CHARLES G. NESSLER
P.O. BOX H
CHESTER CT 06412

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APR 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
David A. Potts	:	
Application No. 10/292,185	:	ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. 9916B	:	

This is a decision on the petition, filed April 23, 2004, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application filed by express mail on April 21, 2004.

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

Upon receipt of the file in the Office of petitions, the application will be forwarded 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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#3

MAILED

JAN 15 2003

Office of the Director
Group 3600

Fitch Even Tabin and Flannery
120 South La Salle Street
Suite 1600
Chicago, IL 60603-3406

In re Application of
Paul Larson
SERIAL NO: 10/292,202
FILED: November 12, 2002
FOR: OBJECT MANIPULATION APPARATUS

DECISION ON PETITION
TO MAKE APPLICATION
SPECIAL (AGE)

This is a decision on your petition submitted on October 29, 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. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

rjb:1/3/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061118

DATE : November 18, 2006

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction on Patent No.: 7,090,491

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:

Cris Rodriguez

SPE: Cris Rodriguez **Art Unit** 3732

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AUG 01 2003

TECHNOLOGY CENTER 2100

#4
8-1-03

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WASHINGTON, D.C. 20231
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Paper No. 4

Clement Cheng
Law Offices of Clement Cheng
17220 Newhope Street #127
Fountain Valley, California 92708

In re Application of: Stephen Scherer	)	DECISION ON PETITION FOR
Application No. 10/292,212	)	ACCELERATED
Filed: November 13, 2002	)	EXAMINATION UNDER
For: PROFILE MANAGEMENT SYSTEM	)	M.P.E.P. §708.02(VIII)

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

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §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.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated***. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission fails on two counts. The petition is deficient in that **(1)** there is no statement that applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention as required by section (b), and **(2)** Applicant's submission merely provides a brief characterization of each reference accompanied by a statement regarding a difference between the reference (in application or advantage) and the ***disclosed*** invention. The discussion (a) does not adequately describe the references and (b)does not point out how the ***claimed subject matter is patentable over the references***. That is, the detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

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Paper No. 6

Clement Cheng
Law Offices of Clement Cheng
17220 Newhope Street #127
Fountain Valley, CA 92708

MAILED
SEP 30 2003
Technology Center 2100

In re Application of: Stephen Scherer Application No.: 10/292,212 Filed: March 06, 2001 For: PROFILE MANAGEMENT SYSTEM	**DECISION ON RENEWED PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the renewed petition to make special, filed August 21, 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.

The Renewed Petition is **DENIED**.

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.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will

> remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's petition to make special, filed on June 20, 2003, was dismissed because (1) there was no statement to make an election without traverse, and (2) Petitioner's submission merely provided "a brief characterization of each reference accompanied by a statement regarding a difference between the reference... and the **disclosed** invention." The discussion did not adequately describe the references and did "not point out how the **claimed subject matter is patentable over the references**. That is, the detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c)."

Petitioner's current renewed petition to make special, filed on August 21, 2003, is deficient. Although Petitioner submits a statement of election without traverse in response to the Decision on Petition dated August 01, 2003, Petitioner still fails to submit "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" (MPEP §708.02, Section VIII):

(1) Petitioner's submission merely provides a brief discussion of each of the cited references, not a detailed discussion with the particularity required by 37 CFR 1.111(b) and (c). Although Petitioner's submission is accompanied by the abstracts of four cited references, these abstracts are not "detailed discussion of the references" because the term "abstract," by definition, is "a summary of points... usually presented in skeletal form" (Webster's Ninth New Collegiate Dictionary, 1990). Therefore, Petitioner's submission does not satisfy the requirement "detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c)..." of MPEP §708.02 (VIII) Item (E).

(2) Petitioner's submission compares brief disclosures of the references with the disclosed subject matter, not with the claimed subject matter. Petitioner refers to the following elements as "[p]atentable element(s) of claimed invention over reference": (a) "the ability of mutual update and interactive data exchange," (b) "users are allowed to actively TAG others, while having the liberty of setting his/her own secure level on his/her own published personal profile," (c) "'TAG-ging' enables others to access different levels of published profile the users previously set," (d) "internet applicability," (e) "users are allowed to actively TAG others instead of solely being sorted by pre-set preferences," (f) "selectively publishing personal profile method by level," (g) "users are allowed to actively set his/her security level in which his/her personal profile being published," and (h) "users are also allowed to TAG on others allowing access to different levels of said personal profile." These elements are generally related to the claimed invention, but are not recited in their entirety in the independent claims 1, 5, and 9. In addition, Petitioner generally refers to the disclosed invention and does not discuss any specific claim. Thus, Petitioner's submission does not satisfy the requirement "how the claimed subject matter is patentable over the references" of MPEP §708.02 (VIII) Item (E).

For the above stated reasons, the Renewed Petition is **DENIED**.

As petitioner has failed to perfect his request in his renewed petition, no further renewed petitions will be considered in Technology Center 2100. Petitioner may wish to consider filing a new petition accompanied by the appropriate fee or to file a petition to review the decision of Special Program Examiner under 37 CFR 1.181.

The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

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

Bot LeDynh
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter J. Dronzek, Jr.	:	
Application No. 10/292,231	:	NOTICE
Filed: November 12, 2002	:	
Attorney Docket No. 181-030A	:	

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 (571) 272-3201.

Sherry D. Brinkley

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

#14

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Commissioner for Patents
United States Patent and Trademark Office
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11/8/06

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

In re Application of:
ISHII, TATSUYA et al
Serial No.: 10/292,234
Filed: Nov. 12, 2002
Docket: AA470C
Title: RELEASABLY SEALABLE, AIR AND LIQUID IMPERMEABLE BAGS AND METHODS FOR LOW TEMPERATURE FOOD PREPARATION USING THE SAME

Withdrawal Holding of Abandonment

This is a decision on petitioner's request filed June 30, 2006 to review the holding of abandonment, mailed July 16, 2004 for failure to respond to the Office action of Dec. 12, 2003.

In support of the request, petitioner has submitted a copy of a Request for Continued Examination (RCE) and a response with a Certificate of Facsimile Transmission dated March 1, 2004. Petitioner has also submitted a declaration attesting to the timely transmission as required by 37 CFR 1.8(b).

In view of the above, the Notice of Abandonment mailed July 16, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3742 for entry of RCE and the response as transmitted on March 1, 2004. Should applicant have any further questions, he is invited to contact Henry Yuen, TC 3700 SPRE, at 571-272-4856.

Summary: Holding of Abandonment Withdrawn.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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MILTON S. SALES
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

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SEP 21 2005
OFFICE OF PETITIONS

In re Application of	:	
Brost, Randolph C.	:	
Application No. 10/292,235	:	ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. 85399RRS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 2, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 3, 2005. A Notice of Abandonment was mailed on August 17, 2005.

Petitioner's deposit account will be charged $1500.00 for the petition fee as authorized.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARK V. HOCKENSMITH
3321 MCCRACKEN PIKE
VERSAILLES, KY 40383

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AUG 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Mark V. Hockensmith	:	
Application No. 10/292,241	:	DECISION GRANTING PETITION
Filed: November 12, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 103906.000001	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of October 20, 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 3634.

Karen Creasy

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC 10 2003

Paper No. 4

In re Application of	:	
Randolph D. Gray	:	PETITION UNDER
Serial Number : 10/292,248	:	MPEP 708.02 VI (b)
Filed : November 12, 2002	:	
For : SYSTEM AND METHOD FOR	:	
CHARGING AN ELECTRONIC DEVICE	:	
USING SOLAR ENERGY	:	

This is in response to the petition filed, November 12, 2002 requesting that the above-identified application be granted Special Status under Section 708.02 VI(b) of the MPEP and 37 CFR 1.102c (**no fee required**).

The request for Special Status considered under Sections 708.02 VI (b) is granted because criteria under 37 CFR 1.102c has been met.

Accordingly the petition has been **GRANTED**.

Marian C Knode

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

Kevin R. Imes
800 Honeysuckle Lane
Pflugerville, TX 78660

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY -6 2005

In re Application of	:	
Avetis Iskanian	:	
Serial No. 10/292,254	:	DECISION ON
Filed: November 12, 2002	:	PETITION TO WITHDRAW
For: COMPACT DISK HOLDER	:	AS ATTORNEY

By papers filed on January 14, 2005, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the new correspondence address for this application is:

Nick Iskanian
Arax Tag & Label Co.
2860 Glenview Avenue
Los Angeles, CA 90039

Donna Bragaha
Office of the Director
Technology Center 3700

Michael N. Radparvar, Esq.
Lewis Brisbois Bisgaard & Smith
221 N. Figueroa Street, Suite 1200
Los Angeles, CA 90012

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GREGORY M. FRIEDLANDER
11 SOUTH FLORIDA STREET
MOBILE, AL 36606

COPY MAILED

JUL 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Herman Figgers :
Application No. 10/292,258 : ON PETITION
Filed: November 8, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings on or before April 25, 2005 as required by the Notice of Allowability mailed January 25, 2005. Accordingly, this application became abandoned on April 26, 2005. A Notice of Abandonment was mailed on May 20, 2005.

This application is being forwarded to Publishing Division for review of the drawings filed June 9, 2005.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

COPY MAILED

MAY 0 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,029,507	:	
Issue Date: April 18, 2006	:	
Application No. 10/292,263	:	NOTICE
Filed: November 12, 2002	:	
Attorney Docket No. 037768-0196	:	

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
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. 6

CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91105

MAILED

APR 03 2003

Technology Center 2600

In re Application of:
Paul Yurt et al
Application No. 10/292,279
Filed: November 11, 2002
For: **AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition filed November 11, 2002, under Manual of Patent Examination Procedure §708.02, II: Infringement.

A grantable petition under Manual of Patent Examination Procedure §708.02, II, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;

(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and,

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUL 12 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Kwan-Yong Lim et al	:	
Application No. 10/292,296	:	
Filed: November 12, 2002	:	
Attorney Docket No. 29926/38091	:	

This is a decision on the petition, filed June 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2823 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA CA 91105

MAILED

JUL 10

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Yurt et al.
Application No. 10/292,304
Filed: November 11, 2002
For: AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 11, 2002 under 37 CFR § 1.102(d) to make the application special.

A grantable petition under 37 CFR § 1.102(d) and MPEP § 708.02, section II: Infringement, must be accompanied by the required fee and a statement alleging:

- (1) that there is an infringing device or product actually on the market or method in use;
- (2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all of the above requirements. Accordingly, the petition is **GRANTED**.

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

MAILED

JUL 10 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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AUG 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Yurt et al.	:	
Application No. 10/292304	:	
Filing or 371(c) Date: 11/11/2002	:	
Attorney Docket Number:	:	
49107/DMC/A719	:	ON PETITION

This is a decision on the Petition Under 37 C.F.R.§ 1.181(a), for Withdrawal of Improper Notice of Abandonment, filed July 6, 2009. The petition asserts that a timely response to the Office action was filed.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed November 13, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on February 14, 2009. A Notice of Abandonment was mailed May 26, 2009.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Office action was filed on May 12, 2009, including a request and fee for a three (3) month extension of time. Applicant files a copy of the reply.

Office records

A review of Office records reveals that an Amendment in response to the non-final office action was received in this Office, along with a request and fee for a three (3) month extension of time, on May 12, 2009.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

Correspondence Address

The MPEP states that "[w]here an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). See 37 CFR 11.11. The notification should also include his or her telephone number. MPEP 601.03

A review of Office records reveals that 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.

Conclusion

The application will be referred to Technology Center Art Unit 2421 for processing of the Reply.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

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Commissioner for Patents
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JJGJR.: 10-07

Paper No: __

PAUL BAWEL
GENERAL INSTRUMENT
CORPORATION
LAW DEPARTMENT
101 TOURNAMENT DRIVE
HORSHAM PA 19044

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OCT 09 2007
OFFICE OF PETITIONS

In re Application of	:	
Kamieniecki, et al.	:	DECISION
Application No.: 10/292,306	:	
Filing Date: 12 November, 2002	:	
Attorney Docket No. D3063	:	

This is a decision on the petition filed on 12 October, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

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]

Petitioner herein does not appear to have been of record at the time the instant application went abandoned, and, therefore, cannot attest to the nature of the abandonment.

The petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

---

[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.**

NOTES:

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

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 4 August, 2005, with reply due absent extension of time on or before 4 November, 2005;
- the application went abandoned by operation of law after midnight 4 November, 2005;
- the Office mailed the Notice of Abandonment on 7 March, 2006;
- with the instant petition (with fee), Petitioner filed a reply in the form of an amendment, and made the statement of unintentional delay–however, Petitioner herein, Thomas Bethea, Jr. (Reg. No. 53,987) does not appear to have been of record herein at the time the application went abandoned, and so is not in a position to make properly such a statement.

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]

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

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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]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

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 not satisfied the "statement/showing" requirement of the regulation.

CONCLUSION

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

Further correspondence with respect to this matter should be addressed as follows:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

[8] 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] 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.)

[10] 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[11]) 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 05

MAILED

MAR 25 2003

OFFICE OF DIRECTOR
GROUP

JOHN V. STEWART
1308 HENRY BALCH DRIVE
ORLANDO, FL 32810

In re Application of:	:	
BERSON, WILLIAM	:	
Application No. 10/292,314	:	DECISION ON PETITION
Filed: November 12, 2002	:	TO MAKE SPECIAL
For: PEN AND SYSTEM FOR	:	
WRITING ENCODED LINES	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed, via facsimile transmission, on March 03, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(I), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition contains items (a)-(e) in accordance with M.P.E.P., Section 708.02, Item VIII. Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for examination under the accelerated examination procedure.

If the examiner determines that restriction is necessary, he/she will follow the established telephone practice to resolve the restriction. If applicant elects with traverse the application will

be forwarded to the Special Programs Examination unit to vacate this decision, and the application will be taken up by the examiner for action in its regular turn.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference. Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. Section 1309. The petition is granted to the extent indicated.

Inquiries regarding 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GO

Paper No. 6

RICHARD A. DUNNING, JR.
343 SOQUEL AVENUE
SUITE 311
SANTA CRUZ, CA 95062

COPY MAILED
JUN 2 7 2003
OFFICE OF PETITIONS

In re Application of
Matthew Rabinowitz et al
Application No. 10/292,316
Filed: November 12, 2002
Attorney Docket No. RSM027001

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

COMMISSIONER FOR PATENTS
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July 1, 2004

JORDAN AND HAMBURG LLP
C. Bruce Hamburg
122 East 42ND Street, Suite 4000
New York, NY 10168

JUL 13 2004

In re application	:	
Takashi Ito et al.	:	NOTICE OF WITHDRAWAL
Application No.: 10/292,336	:	FROM ISSUE
Filed: November 12, 2002	:	UNDER 37 CFR 1.313
Attorney Docket No.: F-7601	:	
For: SMALL LENS FOR OPTICAL USE	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 10, 2004 are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquiries should be directed to Supervisory Patent Examiner Georgia Y. Epps at (571) 272-2328.

RECEIVED
OCT 29 2004
OIPE / JC/VS

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

Janice A. Falcone, Director
Technology Center 2800
Semiconductor, Electrical, and Optical
Systems, and Components

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Paper No.

PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

COPY MAILED
DEC 31 2007
OFFICE OF PETITIONS

In re Application No. 10/292,343	:	
Blanchflower et al.	:	DECISION ON REQUEST FOR
Filed: November 12, 2002	:	RECONSIDERATION OF
Title: METHODS OF TREATMENT AND	:	PATENT TERM ADJUSTMENT
FORMULATIONS OF CEPHALOSPORIN	:	

This is a decision on the "Petition to adjust Patent Term Adjustment" filed on October 19, 2007. Applicants request that the patent term adjustment indicated in the patent be corrected from zero (0) to two hundred and ninety-six (296) days.

The present application for patent term adjustment requests reconsideration of the patent term adjustment both in regards to applicant's delay in filing a response to a final Office action and as it relates to the Office's failure to issue the patent within 3 years of the filing date.

Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 C.F.R. § 1.703(b). Thus, this period of adjustment is reflected in the revised patent term adjustment indicated on the patent.

Since the patent has not yet issued, the portion of the petition that regards to the failure to issue the patent within three years will be held in abeyance until after issuance of the

patent. Patentee is given **TWO MONTHS from the issue date of the patent** to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 C.F.R. § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

However, if an application is entitled to an adjustment under 35 U.S.C. § 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. § 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. § 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. § 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. §§ 154(b)(1)(B), 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

The remainder of this decision pertains to the other bases for the filing of this application for patent term adjustment.

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is thirty-nine **(39)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 27, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. The present application for

patent term adjustment was timely filed[1] on or before payment of the issue fee. Applicants dispute the reduction of 161 days associated with the amendment filed April 7, 2006. Applicants also assert that a period of adjustment of 158 days should be entered in association with the re-mailing of an Office action on February 7, 2006.

Petitioner's arguments have been considered, and they have been deemed to be persuasive. On April 7, 2006, Applicants submitted an after-final amendment. The final rejection was mailed on July 28, 2005, however as Petitioner has indicated in this petition, the period for response was restarted via the mailing of a letter on February 7, 2006. As such, the response of April 7, 2006 was filed within the three month period set forth in 37 C.F.R. § 1.704(b). The period of reduction of 161 days entered pursuant to 37 C.F.R. § 1.704(b) is incorrect and has been removed. No period of reduction pursuant to 37 C.F.R. § 1.704(b) for the filing of the response on April 7, 2006 is warranted.

In addition, entry of a further period of Office delay is warranted. A response to a non-final Office action was filed on May 2, 2005. The Office mailed a final Office action on July 25, 2005, but this was returned to the Office. The Office action was returned to the Office due to Office error in mailing. A letter re-mailing the Office action and restarting the period for response was not mailed until February 7, 2006. This constitutes an Office delay of 158 days.

The other periods of delay are not at issue.

Pursuant to 37 C.F.R. § 1.702(a)(2), the Office is required to respond to a reply pursuant to 35 U.S.C. § 132 not later than 4 months after the date on which the reply was filed. Applicant filed a response to a restriction requirement on October 23, 2003, and a non-final Office action was not mailed until March 10, 2004. This constitutes an Office delay of 16 days.

Thus, the proper period of adjustment for Office delay is 174 (16 + 158) days.

Pursuant to 37 C.F.R. § 1.704(b), the failure to submit a response within three months of the mailing of an Office action

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1 PALM records indicate that the issue fee was paid on October 31, 2007.

is a failure to engage in reasonable efforts to conclude prosecution. A restriction requirement was mailed on July 3, 2003, and a response was not received until October 23, 2003. This constitutes a delay of 20 days.

Similarly, a non-final Office action was mailed on March 10, 2004, and a response was not received until July 6, 2004. This constitutes a delay of 26 days.

Furthermore, another non-final Office action was mailed on November 3, 2004, and a response was not received until May 2, 2005. This constitutes a delay of 88 days.

Finally, a final rejection was mailed on February 23, 2007, and a Notice of Appeal was received on May 24, 2007. This constitutes a delay of 1 day.

Thus, the proper period of reduction is 135 (20 + 26 + 88 + 1) days.

In view thereof, the patent should have issued with a revised patent term adjustment of 39 (174 - 135) days.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl. Copy of the Revised Patent Term Adjustment

Day : Friday
Date: 12/28/2007

PALM INTRANET

Time: 17:24:55

PTA Calculations for Application: 10/292343			
Application Filing Date:	11/12/2002	PTO Delay (PTO):	16
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	296
Post-Issue Petitions:	0	Total PTA (days):	39
PTO Delay Adjustment:	319		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
83	12/04/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	158		
82	12/04/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	161		
74	08/27/2007	MAIL NOTICE OF ALLOWANCE			
73	08/27/2007	MAIL EXAMINER'S AMENDMENT			
72	08/22/2007	ISSUE REVISION COMPLETED			
71	08/22/2007	DOCUMENT VERIFICATION			
70	08/22/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
69	08/22/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	08/22/2007	CASE DOCKETED TO EXAMINER IN GAU			
67	08/06/2007	EXAMINER'S AMENDMENT COMMUNICATION			
66	08/06/2007	NOTICE OF ALLOWABILITY			
65	08/06/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
64	07/23/2007	DATE FORWARDED TO EXAMINER			
63	07/20/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
62	07/23/2007	DATE FORWARDED TO EXAMINER			
61	07/20/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
60	07/23/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
59	07/20/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
58	05/24/2007	NOTICE OF APPEAL FILED			
57	05/24/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	05/24/2007	NOTICE OF APPEAL FILED		1	54

55	05/24/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	02/23/2007	MAIL FINAL REJECTION (PTOL - 326)			
53	02/20/2007	FINAL REJECTION			
52	02/08/2007	DATE FORWARDED TO EXAMINER			
51	01/18/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
50	02/08/2007	DATE FORWARDED TO EXAMINER			
49	01/18/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
48	02/08/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
47	01/18/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
46	10/20/2006	MAIL FINAL REJECTION (PTOL - 326)			
45	10/16/2006	FINAL REJECTION			
44	08/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	08/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
42	08/14/2006	DATE FORWARDED TO EXAMINER			
41	08/08/2006	RESPONSE AFTER NON-FINAL ACTION			
40.7	08/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	08/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	05/10/2006	MAIL NON-FINAL REJECTION			
38	05/08/2006	NON-FINAL REJECTION			
37	04/12/2006	DATE FORWARDED TO EXAMINER			
36	04/07/2006	AMENDMENT AFTER FINAL REJECTION		161	32
35	02/07/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
34	02/03/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
33	02/01/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
32	07/28/2005	MAIL FINAL REJECTION (PTOL - 326)			
31	07/25/2005	FINAL REJECTION			
30.7	05/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	28
30	05/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

29	05/17/2005	DATE FORWARDED TO EXAMINER			
28	05/02/2005	RESPONSE AFTER NON-FINAL ACTION		88	26
27	05/02/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	11/03/2004	MAIL NON-FINAL REJECTION			
25	10/25/2004	NON-FINAL REJECTION			
24	07/29/2004	DATE FORWARDED TO EXAMINER			
23	07/06/2004	RESPONSE AFTER NON-FINAL ACTION		26	20
22	07/06/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	07/06/2004	WORKFLOW INCOMING AMENDMENT IFW			
20	03/10/2004	MAIL NON-FINAL REJECTION	16		15
19	03/08/2004	NON-FINAL REJECTION			
18	11/12/2003	IFW AMENDED CASE PROCESSING COMPLETE			
17	11/12/2003	CLAIMS PTO			
16	11/12/2003	DATE FORWARDED TO EXAMINER			
15	10/23/2003	RESPONSE TO ELECTION / RESTRICTION FILED		20	12
14	10/23/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	11/12/2003	REFERENCE CAPTURE ON IDS			
12	07/03/2003	MAIL RESTRICTION REQUIREMENT			
11	07/02/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
10	02/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	11/12/2002	PRELIMINARY AMENDMENT			
8.7	11/12/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	11/12/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	01/13/2003	APPLICATION DISPATCHED FROM OIPE			
6	01/10/2003	APPLICATION IS NOW COMPLETE			
3	12/31/2002	CLEARED BY L&R (LARS)			
2	11/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/12/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Jacques Sequin	:	
Application No. 10/292,385	:	DECISION ON PETITIONS
Filed: November 11, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DEVAX.2CP1CP1	:	AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed August 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed specification 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 of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) 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.

Additionally, intermediate International Application No. PCT/FR97/00999 filed June 5, 1997 was filed within twelve months of French Application No. 96 07245, which was filed on June 6, 1996, for which priority is claimed. A reference to these prior-filed applications has been included in the ADS and in the first sentence of the specification following the title.

All of the requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(a)-(d) to the prior-filed foreign application 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.

This application is being to referred Technology Center Art Unit 3774, 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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/292,385	11/11/2002	3774	587	DEVAX.2CP1CP1	27	5

CONFIRMATION NO. 5725

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000028645982

Date Mailed: 03/06/2008

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

Applicant(s)

Jacques Sequin, Berks, UNITED KINGDOM;
Robert John Elicker, Santa Margarita, CA;
Jean-Claude Laborde, Vieille-Toulouse, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number 20995

Domestic Priority data as claimed by applicant

This application is a CIP of 10/225,484 08/20/2002 PAT 7,238,197
which is a CIP of 09/580,597 05/30/2000 PAT 6,666,883
which is a CIP of 09/011,214 04/03/1998 PAT 6,068,655
which is a 371 of PCT/FR97/00999 06/05/1997

Foreign Applications

FRANCE 9607245 06/06/1996

If Required, Foreign Filing License Granted: 01/21/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/292,385**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Endoprosthesis deployment system for treating vascular bifurcations

Preliminary Class

623

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).

10/292406

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2/14/05

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction on Patent No.: 6793167 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

The applicants' remarks in the paper filed 12/20/2004 appear to be correct.

Lowell A. Larson
Primary Examiner

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3725
Art Unit

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SEP 30 2004

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:
Simard et al.	:
Serial No.: 10/292,413	: PETITION TO MAKE SPECIAL
Filed: November 7, 2002	:
Attorney Docket No.: CTLIMM.022A	:

This is in response to applicants' petition filed August 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to HIV/AIDS and cancer. The $130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicant's Deposit Account No. 11-1410, as directed.

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

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROCK BERGERON
c/o Paul Biron
P.O. Box 0732
Jackman ME 04945

COPY MAILED

SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of Rock Bergeron Application No. 10/292,419 Filed: November 12, 2002 Attorney Docket No. 8781 Title of Invention: Security Device For Aircraft Passengers	: : : : : : :	DECISION ON PETITION

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

This above-identified application became abandoned for failure to file a response to a Notice of Drawing Inconsistency with Specification (Notice) which was mailed on June 7, 2005. The Notice set a non extendable one (1) month period for reply. No Extensions of time were not available under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 8, 2005. A Notice of Abandonment was mailed on August 18, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the corrected specification.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

COPY MAILED
AUG 1 8 2004
OFFICE OF PETITIONS

In re Application of :
Ronald L. Alpert, et al. :
Application No. 10/292,430 :
Filed: November 13, 2002 :
Attorney Docket No. 36737-182662

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**.

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.

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

This file is being referred to the Office of Publication for further processing.

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

cc: John P. Shannon
McGinn & Gibb, PLLC
8321 Courthouse Road, Suite 200
Vienna, VA 22182-3817

OIPE IAP90
AUG 28 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:

Mitsuaki AMANO

ATTN: CERTIFICATE OF CORRECTIONS BRANCH

Patent No. 7,067,078 B2

Issued: Jun 2y, 2006

Attorney Docket No. 58546.00006

For: INJECTION MOLDING MACHINE HAVING AN ACCUMULATOR AND A CONTROL METHOD FOR THE INJECTION MOLDING MACHINE

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

August 28, 2006

Sir:

The undersigned requests that a Certificate of Correction be issued for the above-identified patent as indicated on the attached Form PTO-1050.

REMARKS

This request is being made in order to correct an error in the Assignee's name. A copy of the Issue Fee Transmittal is enclosed which indicates the correct Assignee. It is respectfully submitted that no new matter has been added.

08/29/2006 JADDO1 00000004 7067078
01 FC:1811 100.00 OP

Enclosed is a check in the amount of Two Hundred and Thirty Dollars ($230.00), One Hundred Dollars ($100.00), of which, is to cover the fee for the Certificate of Correction. In the event that there may be any other fees due with respect to the filing of this paper, please charge Counsel's Deposit Account No. 50-2222.

Respectfully submitted,

Alicia M. Choi
Registration No. 46,621

Customer Number 32294
SQUIRE, SANDERS & DEMPSEY LLP
8000 Towers Crescent Drive, 14th Floor
Tysons Corner, Virginia 22182-2700
Telephone: 703-720-7800
Fax: 703-720-7802

AMC:kmp

Enclosures: Petition to Accept Request for Certificate of Correction
PTO-Form 1050
Check No. 14947

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

32294 7590 02/10/2006

SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

OIPE IAP90 AUG 28 2006 PATENT & TRADEMARK OFFICE

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/292,446	11/13/2002	Mitsuaki Amano	58546.00006	5032

TITLE OF INVENTION: INJECTION MOLDING 5 HAVING AN ACCUMULATOR AND A CONTROL METHOD FOR THE INJECTION MOLDING MACHINE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	05/10/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
HEITBRINK, JILL LYNNE	1732	264-040100

1. Change of correspondence address or indication of "Fee Ad 7 CFR 1.363).
☐ Change of correspondence address (or Change of Corres Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Squire, Sanders & Dempsey LLP
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON HE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assigne ata will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: ~~Sumito~~ Sumitomo Heavy Industries, Ltd.

(B) RESIDENCE: (CITY and STATE OR COUNTRY): Tokyo, Japan

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☒ Advance Order - # of Copies 10

4b. Payment of Fee(s):
☒ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 50-2222 (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature SIGNATURE ON ORIGINAL Date May 3, 2006

Typed or printed name Peter Flanagan Registration No. 58,178

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,067,078 B2

DATED : June 27, 2006

INVENTOR(S) : Mitsuaki AMANO

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

On the Front Page of the Patent, in Section (73), the name of the Assignee should read as follows:

Sumitomo Heavy Industries, Ltd., Tokyo (JP)

MAILING ADDRESS OF SENDER:

Customer No. 32294
SQUIRE, SANDERS & DEMPSEY L.L.P.
8000 Towers Crescent Drive, 14th Floor
Tysons Corner, Virginia 22182-2700

Patent No. 7,067,078 B2

No. of add'l. copies
@ 304 per page

—

FORM PTO 1050 (REV. 3-82)

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SQUIRE, SANDERS & DEMPSEY
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8000 TOWERS CRESCENT
TYSONS CORNER VA 22182

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JAN 09 2007

OFFICE OF PETITIONS

In re Patent No. 7,067,078	:	
Issue Date: June 27, 2006	:	
Application No. 10/292,446	:	ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No. 58546.00006	:	

This is a decision on the petition filed August 28, 2006, 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 06 2007

OFFICE OF PETITIONS

FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA

In re Application of	:	
Neil Hutton	:	
Application No. 10/292,481	:	NOTICE
Filed: November 13, 2002	:	
Attorney Docket No. 12M-34 US	:	

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

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.
10/292,489	11/13/2002	Claude Comair	723-1237	7174

27562 7590 04/21/2009
NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
LUU, CUONG V

ART UNIT	PAPER NUMBER
2128	

MAIL DATE	DELIVERY MODE
04/21/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of:
COMAIR, CLAUDE et al.
Application No. 10/292,489
Filed: November 13, 2002
For: SYSTEM AND METHOD FOR EFFICIENTLY SIMULATING AND IMAGING REALISTIC WATER SURFACE AND OTHER EFFECTS

DECISION ON PETITION UNDER 37 CFR 1.84 TO ACCEPT COLOR DRAWINGS

This is a decision on the petition, filed March 13, 2008 under 37 CFR 1.84 to accept color drawings.

Petitioner requests the acceptance of color drawings because:

(1) Color drawings are necessary to illustrate exemplary illustrative screen effects defined in the specification.

The relevant section concerning color drawings is MPEP 608.01(f) and MPEP 608.02.

MPEP 608.01(f) and MPEP 608.02 state in part:

The specification must contain or be amended to contain proper reference to the existence of drawings executed in color as required by 37 CFR 1.84.

37 CFR 1.84 states in part:

37 CFR 1.84 Standards for drawings.

(a) *Drawings.*

... ..

(2) *Color.* On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:

(i) The fee set forth in § 1.17(h);

(ii) Three (3) sets of color drawings;

(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

A review of the record reveals the Applicant has complied with the requirements of 37 CFR 1.84(a)(2) by filing (i) The fee set forth in § 1.17(h); (ii) Three (3) sets of color drawings; and including (iii) the following language as the first paragraph of the brief description of the drawings on page 7 of the Specification: The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Furthermore, the Applicant has provided reasons why color drawings are necessary as required by 37 CFR 1.84. Accordingly the petition of March 18, 2008 to accept the color drawings is **GRANTED.**

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

Attorney's Docket No. 051437-0292020
Client Reference: MANE-001/CON

PATENT

IPE JC177
DEC 0 4 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: JAMES A LEWIS, ROBERT J HECKING

Confirmation No: 5527

Application No.: 10/292,518

Group No.: 1751

Filed: November 13, 2002

Examiner:

For: FOAM FABRIC FRESHENER COMPOSITION AND METHOD

Approved AUG 1 0 2004
Jmotone
Jacqueline M. Stone, Director
Technology Center 1700

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

ATTENTION: Director, Group 1751

REQUEST FOR WITHDRAWAL AS ATTORNEY (37 C.F.R. § 10.40(c))

REQUEST FOR PERMISSION TO WITHDRAW

1. I, an attorney signing below, respectfully request permission to withdraw from all further responsibility in this case, in accordance with 37 C.F.R. § 1.36.

LAST KNOWN ADDRESS OF CLIENT

2. The last known mailing address of the assignee of the entire interest is:

MANE, U.S.A.
60 Demerest Drive
Wayne, NJ 07470

BASIS FOR WITHDRAWAL REQUEST

3. The basis for the request for withdrawal is 37 C.F.R. 10.40(c) § (1) and (5).

Explanation (including brief description of exhibits, if any):

ALLOWANCE OF TIME FOR CLIENT TO ACT

4. Status of this Application

A. Response due

(i) There is no outstanding term for response.

NOTIFICATION OF CLIENT

5. In accordance with 37 C.F.R. § 10.40(a), a copy of this request, including attachments, is being sent to the client.

A copy of the letter to the client is attached.

NUMBER OF COPIES OF REQUEST

6. This request is enclosed in triplicate.

7. Related Applications for Which Withdrawal is Requested

Withdrawal also is (has been) requested in the following related applications of the inventor and assignee.

Application Number	Group	Status of Withdrawal request
09/678,670 (US 6,482,783)		Filed Concurrently

SIGNATURE OF WITHDRAWING PRACTITIONER

8. Signature(s) of the attorney(s) withdrawing (or signature of an authorized attorney on behalf of an attorney withdrawing)

Richard A Steinberg

Signature of withdrawing practitioner

Richard A. Steinberg
Reg. No.: 26588

Signature of withdrawing practitioner

Paul L. Sharer
Reg. No.: 36004

PILLSBURY WINTHROP LLP
P.O. Box 10500
McLean, VA 22102
(703) 905-2000
Customer Number: 00909

Also signing as authorized agent for each of the following:

George M. Sirilla	18221	Guillermo Baeza	35056	Vicki Norton	40745
Richard Steinberg	26588	Jeffrey D. Karceski	35914	Robert J. Walters	40862
Richard H. Zaitlen	27248	Steven Moore	35959	Thomas Cawley, Jr.	40944
Jonathan E. Jobe, Jr.	28429	Paul L. Sharer	36004	Kerry T. Hartman	41818
Glenn J. Perry	28458	Roger S. Joyner	36176	Adam R. Hess	41835
Dale S. Lazar	28872	Jack S. Barufka	37087	Christine H. McCarthy	41844
Suzanne L. Biggs	30158	Kenneth M. Fagin	37615	Henry J. Daley	42459
Mark G. Paulson	30793	F.T. Mahaney	37668	Chang H. Kim	42727
Roger R. Wise	31204	Glenn T. Barrett	38705	James R. Menker	42881
John R. Wetherell, Jr.	31678	William P. Atkins	38821	Anand Sethuraman	43351
David H. Jaffer	32243	Brian J. Beatus	38825	Bryan P. Collins	43560
David A. Jakopin	32995	Robert C.F. Perez	39328	John P. Darling	44482
Caroline D. Dennison	34494	Thomas P. Hilliard	40330	Keyvan Davoudian	47520
Jeffrey W. Guise	34613	Mark J. Danielson	40580	Eric Hernandez	47641

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CLARK & BRODY
Suite 600
1750 K Street, NW
Washington DC 20006

MAILED

OCT 15 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 3

In re application of
Nicholas M. Kiefer
Application No.10/292532
Filed: November 13, 2002
For: METHOD FOR DETERMINING RETAIL UNIT SPECIFIC PRICE SENSITIVITIES

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R §1.102(d) to make the above-identified application special that was filed on June 12, 2003

The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed June 12, 2003 lacks requirement 2(C), above. In view of this deficiency, the petition is **DISMISSED**.

The applicant, assignee or attorney in addition to stating that a careful search of the prior art has been made, or having good knowledge of the prior art, **must** submit the most closely related pieces of prior art.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

KJD/ekn 10/9/03

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

APR 15 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

CLARK & BRODY
Suite 600
1750 K Street, NW
Washington DC 20006

Paper No. 5

In re application of
Nicholas M. Kiefer
Application No.10/292,532
Filed: November 13, 2002
For: METHOD FOR DETERMINING RETAIL UNIT SPECIFIC PRICE SENSITIVITIES

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the renewed petition under 37 C.F.R § 1.102(d) filed October 22, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market 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 October 22, 2003 lacks requirement 2(C), above. In view of this deficiency, the petition is **DISMISSED**.

The applicant, assignee or attorney in addition to stating that a careful search of the prior art has been made, or having good knowledge of the prior art, **must** submit the **most closely** related pieces of prior art. Since "most closely related" is the **best** of the art found, a submission of art is <u>always required</u>, even if the applicant feels that it is not all that related to the invention. Applicant has mentioned other applications in which similar petitions to make special were granted. Despite the decisions in the other applications, the decision in this application is considered to be in conformance with the procedure set forth in M.P.E.P. § 708.02.

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

Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

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

RAR/cps: 4/13/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/27/06

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/292539** Patent No.: **7066961**

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. 83

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: _____

Corinne McDermott — **SPE**

3738 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

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SEP 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Metchetner et al.	:	
Application No. 10/292,541	:	ON APPLICATION FOR
Filed: November 12, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 93,987-K	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed January 22, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred seventy-five (575) days, not zero (0) days as calculated at the time of the mailing of the notice of allowance. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not

[1] It is noted that a request for continued examination (RCE) was first filed in this application on October 31, 2007. An RCE cuts-off their ability to accumulate any additional patent term for over three year pendency. The 1.702(b) period excludes any period consumed by continued examination requested by applicant under 35 U.S.C. 132(b).

undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

---

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Eugene Metchetner	: DECISION ON REQUEST FOR
Patent Number	: 7598340	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/292,541	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **711** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-14-04

Paper No.: 8

TO SPE OF : ART UNIT 3700

SUBJECT : Request for Certificate of Correction on Patent No.: 6733535

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

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

3738
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Offic

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

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OFFICE OF PETITIONS

In re Application of	:	
Graeme Moad et al	:	
Application No. 10/292,573	:	ON PETITION
Filed: January 24, 2003	:	
Attorney Docket No. RA0741USCNT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 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 June 10, 2004.

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

Pursuant to petitioner's authorization, Deposit Account No. 04-1928 was charged $1,500.00 for the petition to revive an unintentionally abandoned application.

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

This matter is being referred to Technology Center AU 1713.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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TYSONS CORNER VA 22182

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MAY 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Wong and Chen	:	DECISION REFUSING STATUS
Application No. 10/292,581	:	UNDER 37 CFR 1.47(b)
Filed: 13 November, 2002	:	
Atty Docket No. 58268.00163	:	

This is a decision in response to the petition filed on 13 November, 2002, under 37 CFR 1.47(b).

The Office apologizes for the delay in responding to the present petition.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 13 November, 2002. The present petition under 37 CFR 1.47(b) was filed with the application, along with a declaration naming David Wong and Xi Chen as joint inventors, signed by registered patent attorney Dinnatia J. Doster on behalf of the non-signing inventors.

Petitioners assert that a copy of the application was forwarded to the non-signing joint inventors, who failed to sign and return the declaration.

Petitioner further asserts that the inventors had an agreement to assign their interests to petitioner Broadcom Corporation (hereinafter "Broadcom").

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks item (5).

As to item (5), applicant failed to show or provide proof that Broadcom has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Specifically, although a copy of the employee agreement between inventor Wong and petitioner Broadcom has been recorded in USPTO assignment records, no agreement signed by joint inventor Chen is located in the assignment records or among the papers filed with the petition. Petitioners should file a copy of the employee agreement with joint inventor Chen and Broadcom in a renewed petition. Additionally a duplicate copy of the agreement with Wong should be filed with the renewed petition in order to properly complete the application file.

Additionally, acceptable proof would include a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

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

By mail: Mail Stop Petition
Commissioner for Patents
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 22134

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
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TYSONS CORNER VA 22182

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Wong and Chen	:	DECISION ACCORDING STATUS
Application No. 10/292,581	:	UNDER 37 CFR 1.47(b)
Filed: 13 November, 2002	:	
Atty Docket No. 58268.00163	:	

This is a decision in response to the renewed petition filed on 8 March, 2006, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioners have shown that the joint inventors have refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners shown, that a copy of the application was sent to each of the non-signing inventors. The joint inventors, however, have failed to sign and return the declaration. Additionally, petitioners have shown, via the employment agreements between petitioner Broadcom Corporation ("Broadcom") and the non-signing inventors, that petitioner Broadcom has a proprietary interest in the above-identified application. Lastly, petitioners have submitted a declaration in compliance with 37 CFR 1.63, signed by registered patent attorney Dinnatia J. Doster on behalf of the non-signing inventors, have provided a statement that attorney Doster is authorized to sign as agent for petitioner Broadcom, and have demonstrated that such action is necessary to preserve the rights of the parties.

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

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

The application file is being referred to Technology Center Art Unit 2114 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Xi Chen
47818 Wabana Street
Fremont CA 94539

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of
Wong et al.
Application No. 10/292,581
Filed: 13 November, 2002
For: PHYSICAL LAYER LOOP BACK METHOD AND APPARATUS

Dear Mr. Chen:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SQUIRE, SANDERS & DEMPSEY LLP
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER VA 22182

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 May-06

David Wong
2126 Vizcaya Way
Campbell CA 95008

COPY MAILED
MAY 16 2006
OFFICE OF PETITIONS

In re Application of
Wong et al.
Application No. 10/292,581
Filed: 13 November, 2002
For: PHYSICAL LAYER LOOP BACK METHOD AND APPARATUS

Dear Mr. Wong:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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TYSONS CORNER VA 22182

UNITED STATES PATENT AND TRADEMARK OFFICE

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1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Felix G. Andrew et al	:	
Application No. 10/292,613	:	DECISION GRANTING PETITION
Filed: November 12, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13768.783.19	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 18, 2007, 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 24, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA NY 14850

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JUN 21 2006

OFFICE OF PETITIONS

In re Patent No. 6,776,384 :
Issue Date: August 17, 2004 :
Application No. 10/292,615 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket Number: :
IGARASHI298

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 27, 2006.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

Mail Date: 04/26/2010

Applicant	: Urban Widlund	: DECISION ON REQUEST FOR
Patent Number	: 7572250	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/292,626	: OF WYETH
Filed	: 11/13/2002	:
		:

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

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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MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

Applicant	: Thomas Steven Hirsch	: DECISION ON REQUEST FOR
Patent Number	: 7661127	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/292,666	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **878** 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. 5

COPY MAILED

MAR 2 5 2003

OFFICE OF PETITIONS

PATTON BOGGS
PO BOX 270930
LOUISVILLE, CO 80027

In re Application of
Doug Reiners
Application No. 10/292,671
Filed: November 12, 2002
Attorney Docket Number: 13211.139

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

This is in response to the petition under 37 C.F.R. §1.47(b), filed February 19, 2003.

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

The above-identified application was filed on November 12, 2002, without an executed oath or declaration, and naming Doug Reiners as the sole inventor. Accordingly, on December 13, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit for the purposes of this decision an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition and the surcharge for late filing of the declaration. Accompanying the petition is the employment document of inventor Reiners, and correspondence sent to inventor Reiners.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide item (2).

Deposit account 50-1848 has been charged the $130.00 petition fee.

As to item (2), rule 47 applicant submitted the $65 surcharge fee for the submission of a late oath or declaration, Applicant failed to submit an executed oath or declaration with the petition. The granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

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

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

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

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

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC102
MAY 1 2 2003
PATENT & TRADEMARK OFFICE

Paper No. 5 13211.139

PATTON BOGGS
PO BOX 270930
LOUISVILLE, CO 80027

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MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of
Doug Reiners
Application No. 10/292,671
Filed: November 12, 2002
Attorney Docket Number: 13211.139

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

RECEIVED
MAY 1 3 2003
OFFICE OF PETITIONS

This is in response to the petition under 37 C.F.R. §1.47(b), filed February 19, 2003.

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

The above-identified application was filed on November 12, 2002, without an executed oath or declaration, and naming Doug Reiners as the sole inventor. Accordingly, on December 13, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit for the purposes of this decision an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition and the surcharge for late filing of the declaration. Accompanying the petition is the employment document of inventor Reiners, and correspondence sent to inventor Reiners.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide item (2).

Deposit account 50-1848 has been charged the $130.00 petition fee.

As to item (2), rule 47 applicant submitted the $65 surcharge fee for the submission of a late oath or declaration, Applicant failed to submit an executed oath or declaration with the petition. The granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

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

Due Date: 5/25/03
Statutory Deadline: 10/25/03
Date Docketed: 4/2/03
Docketed by: la
Sec: KJT
Atty: PKW

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

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

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

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

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JUN 1 1 2003

OFFICE OF PETITIONS

PATTON BOGGS
PO BOX 270930
LOUISVILLE, CO 80027

In re Application of
Doug Reiners
Application No. 10/292,671
Filed: November 12, 2002
Attorney Docket Number: 13211.139
Title of Invention: DETECTION OF A LOWER LIMIT OF TAPE HEAD TRAVEL IN A SINGLE REEL TAPE DRIVE

DECISION GRANTING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 C.F.R. §1.47(b), filed May 12, 2003.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has been presented with a copy of the application papers for signature and that he has refused by his conduct to sign the declaration. Applicant submitted the declaration of Shawn Hall, Vice President of Quantum Corporation, applicant corporation. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. The employment agreement establishes the applicant's proprietary interest in the application.

This application is hereby accorded Rule 1.47(b) status.

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

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

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

Charlema R. Grant

Charlema Grant
Petitions Attorney
Office of Petitions

---

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JUN 1 1 2003

OFFICE OF PETITIONS

Doug Reiners
311 Linden Street
Frederick, CO 80503

In re Application of
Doug Reiners
Application No. 10/292,671
Filed: November 12, 2002
Attorney Docket Number: 13211.139
Title of Invention: DETECTION OF A LOWER LIMIT OF TAPE HEAD TRAVEL IN A SINGLE REEL TAPE DRIVE

: LETTER

Dear Mr. Reiners:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b). Should a patent be granted on the application you will be designated therein as the sole inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Phyllis K. Wood
PATTON BOGGS
PO BOX 270930
LOUISVILLE, CO 80027

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MRA ASSOCIATES
1312 44th St Ste 214
Brooklyn NY 11219

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APR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Mike Moshe Bannetto Piamenta	:	
Application No.: 10/292688	:	DECISION ON
Filing or 371(c) Date: 12/01/2005	:	PETITION
Title of Invention:	:	
AUTOMATIC SCANNING SYSTEM,	:	
SHOPPERS SCANPASS SYSTEM	:	

This is a decision in response to the correspondence filed June 16, 2008. The correspondence is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition 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 [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 non-final Office action, mailed August 27, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply to the Office action having been received, the application became abandoned on November 25, 2007. A Notice of Abandonment was mailed March 19, 2008.

The present petition

Applicant files the present petition to withdraw the holding of abandonment, and asserts that he has with him all the proofs with regard to the mailing exchanges which took place in the past, all in order and in timely fashion including April 7, August 27, Oct 30, and Sep 26 2007.

No copies of any documents accompanied the present petition.

Applicable Law Rules and MPEP

The MPEP 711.03(c)II(B), Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed, provides:

> 37 CFR 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 CFR 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 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).
> 37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 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.

Analysis

Applicant asserts that a reply to the Office action was filed; however, Applicant has failed to prove the a reply to the Office action was filed. As stated above, a petition to withdraw the holding of abandonment that is based upon evidence that a timely reply to an Office action was filed, must include evidence of the timely-filed reply in accordance with 37 CFR 1.10 of 37 CFR 1.8. Copies of the reply must be included with the petition.

If Applicant is unable to demonstrate that a timely reply to the Office action was filed, Applicant is advised that the application is, according to statute, abandoned.

The applicable law states as follows:

The applicable statute, 35 U.S.C. § 133, Time for prosecuting application, states

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

This section of the statute is further clarified in Office rule 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been

> inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

This section explains that the reply must be both complete and proper as the condition of the application may require.

As provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Applicant is reminded that all business with this Office must be conducted in writing. The applicable rule, 37 CFR 1.2 states:

> 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.

Conclusion

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of the petition and include copies of the reply and proof of the timeliness of its filing.

If Applicant is unable to demonstrate that a timely reply to the Office action was filed, then the application is properly jeld abandoned, and must be revived.

Alternate venue (Petition to revive)

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a

statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Finally, Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents.

Applicant is further advised that the Office of Independent Inventors, at 703-306-5568; is available to provide assistance in prosecuting patent applications.

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 Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MRA ASSOCIATES
1312 44TH ST STE 214
BROOKLYN NY 11219

MAILED

MAY 07 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Mike Moshe Bannetto Piamenta	:
Application No. 10/292,688	:
Filed: December 1, 2005	:
Title: Automatic Scanning System,	:
Shoppers Scanpass System	

This is a decision on the letter filed March 23, 2009 which is being treated as a petition under 37 CFR 1.102(c)(1), to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED AS MOOT**.

Currently, the above-identified application is classified as abandoned. A Notice of Abandonment was mailed to petitioner on March 19, 2008. If in the future, should the application become revived, applicant may at that time resubmit a petition to make special.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
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

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JUN 16 2009

OFFICE OF PETITIONS

MRA ASSOCIATES
1312 44th St Ste 214
Brooklyn NY 11219

In re Application of	:	
Mike Moshe Bannetto Piamenta	:	
Application No.: 10/292688	:	DECISION ON
Filing or 371(c) Date: 12/01/2005	:	PETITION
Title of Invention:	:	
AUTOMATIC SCANNING SYSTEM,	:	
SHOPPERS SCANPASS SYSTEM	:	

This is a decision in response to the renewed petition to withdraw the holding of abandonment, filed May 6, 2009. The renewed petition is properly treated under 37 CFR 1.181.

This Petition is hereby **dismissed**.

Any further petition 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 [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 non-final Office action, mailed August 27, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply to the Office action having been received, the application became abandoned on November 27, 2007. A Notice of Abandonment was mailed March 19, 2008.

The June 16, 2008 petition

Applicant filed a petition to withdraw the holding of abandonment on June 16, 2008, and asserted that he had with him all the proofs with regard to the mailing exchanges which took place in the past, all in order and in timely fashion including April 7, August 27, Oct 30, and Sep 26 2007.

No copies of any documents accompanied the petition.

The April 23, 2009 Decision dismissing the petition

The petition was dismissed in a Decision mailed April 23, 2009. The Decision informed Applicant that a petition to withdraw the holding of abandonment that is based upon evidence that a timely reply to an Office action was filed, must include evidence of the timely-filed reply in accordance with 37 CFR 1.10 of 37 CFR 1.8. Copies of the reply must be included with the petition. If Applicant was unable to demonstrate that a timely reply to the Office action was filed, Applicant was advised that the application was properly held abandoned.

The present renewed petition

Applicant files the present renewed petition and initially notes that an attempt to contact this Office over the phone was made on 4/30/09 to prove that the in fact had been served on this Office. Applicant includes a copy of a purchase receipt from the United States Post Office ("USPS"), and a copy of a Certified Mail Receipt from the USPS, both dated October 26, 2007, and a copy of a delivery confirmation which contains a date stamp from this Office dated October 30, 2007.

Analysis and conclusion

Initially, Applicant is advised that in accordance with Office Rules, all business must be conducted in writing. The applicable Rule, 37 CFR 1.2, states:

> 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.

Applicant is advised that the application is abandoned because we did not receive a reply to the Office action we mailed on August 27, 2007. Applicant had three (3) months from that date to file a reply. Because we did not receive a reply by November 27, 2007, the application became, and remains, abandoned.

Applicants options are (1) prove that he filed a reply on or before November 27, 2007 (by sending a copy of the reply that was filed), or (2) file a petition to revive the application, and include a reply to the Office action and the petition fee.

As provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of

> abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. (Emphasis supplied).

MPEP 711.03(c).

In this instance, Applicant has shown that postage was paid and a Certified Mailing to this Office occurred on October 30, 2007; however, this Office does not have the contents of the mailing, and Applicant has not submitted a copy of the contents of the mailing.

Regarding withdrawal of the holding of abandonment because Applicant filed a timely reply, Applicant has failed to demonstrate under Office rules that a timely reply was filed. As noted in the prior Decision, acceptable evidence that a reply was timely filed are a copy of an Express Mail Mailing Label in compliance with 37 CFR 1.10, showing that the correspondence was timely filed, and a copy of the reply, or a Certificate of Mailing in compliance with 37 CFR 1.8, and a copy of the reply. Applicant is advised that a Certificate of Mailing under 37 CFR 1.8 is not the same as Certified Mail. If Applicant is unable to demonstrate that he filed the reply in accordance with either 37 CFR 1.10 (Express Mail), or 37 CFR 1.8 (Certificate of Mailing), then 37 CFR 1.6 says that the date of receipt is used. Again, this Office has yet to receive the reply.

Alternate venue (Petition to revive)

It appears from the evidence proffered by Applicant that neither 37 CFR 1.10, nor 37 CFR 1.8 were used, and Applicant instead relied upon Certified Mail. Applicant is advised that a petition under 37 CFR 1.137(a) (as opposed to 37 CFR 1.137(b)), may be considered in this instance. A grantable petition under 37 CFR 1.137(a) requires (1) the petition; (2) the petition fee, and (3) the reply.

Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents.

Applicant is further advised that the Office of Independent Inventors, at 703-306-5568; is available to provide assistance in prosecuting patent applications.

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 Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

Enclosure: PTO/SB/61 (Petition for Revival of an Application Abandoned Unavoidably)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MRA ASSOCIATES
Suite 193
4809 Av. N.
Brooklyn NY 11234

COPY MAILED
JAN 08 2010

In re Application of	:	
Mike Moshe Bannetto Piamenta	:	
Application No.: 10/292688	:	DECISION ON
Filing or 371(c) Date: 12/01/2005	:	PETITION
Title of Invention:	:	
AUTOMATIC SCANNING SYSTEM,	:	
SHOPPERS SCANPASS SYSTEM	:	

This is a decision in response to the correspondence filed August 9, 2009. The correspondence is treated as a renewed petition to withdraw the holding of abandonment under 37 CFR 1.181.

This Petition is hereby **dismissed**.

Any further petition 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 [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 non-final Office action, mailed August 27, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply to the Office action having been received, the application became abandoned on November 27, 2007. A Notice of Abandonment was mailed March 19, 2008.

The June 16, 2008 petition

Applicant filed a petition to withdraw the holding of abandonment on June 16, 2008, and asserted that he had with him all the proofs with regard to the mailing exchanges which took place in the past, all in order and in timely fashion including April 7, August 27, Oct 30, and Sep 26 2007.

No copies of any documents accompanied the petition.

The April 23, 2009 Decision dismissing the petition

The petition was dismissed in a Decision mailed April 23, 2009. The Decision informed Applicant that a petition to withdraw the holding of abandonment that is based upon evidence that a timely reply to an Office action was filed, must include evidence of the timely-filed reply in accordance with 37 CFR 1.10 of 37 CFR 1.8. Copies of the reply must be included with the petition. If Applicant was unable to demonstrate that a timely reply to the Office action was filed, Applicant was advised that the application was properly held abandoned.

The May 6, 2009 petition

Applicant files the present renewed petition and initially notes that an attempt to contact this Office over the phone was made on 4/30/09 to prove that the in fact had been served on this Office. Applicant includes a copy of a purchase receipt from the United States Post Office ("USPS"), and a copy of a Certified Mail Receipt from the USPS, both dated October 26, 2007, and a copy of a delivery confirmation which contains a date stamp from this Office dated October 30, 2007.

The August 9, 2009 Decision dismissing the petition

In a Decision dismissing the May 6, 2009 petition, Applicant was initially advised that in accordance with Office Rules, all business must be conducted in writing. The applicable Rule, 37 CFR 1.2, states:

> 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.

Applicant was advised that the application became abandoned because this Office did not receive a reply to the Office action mailed on August 27, 2007. Applicant had three (3) months from that date to file a reply. Because this Office did not receive a reply by November 27, 2007, the application became, and remains, abandoned.

Applicant was advised that his options are (1) prove that he filed a reply on or before November 27, 2007 (by sending a copy of the reply that was filed), or (2) file a petition to revive the application, and include a reply to the Office action and the petition fee.

As provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates),

> a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. (Emphasis supplied).

MPEP 711.03(c).

While Applicant had shown that postage was paid and a Certified Mailing to this Office occurred on October 30, 2007; Applicant was informed that this Office does not have the contents of the mailing, and Applicant had not submitted a copy of the contents of the mailing.

Regarding withdrawal of the holding of abandonment because Applicant filed a timely reply, Applicant was informed that he had failed to demonstrate under Office rules that a timely reply was filed. As noted in the prior Decision, acceptable evidence that a reply was timely filed would be a copy of an Express Mail Mailing Label in compliance with 37 CFR 1.10, showing that the correspondence was timely filed, and a copy of the reply, or a Certificate of Mailing in compliance with 37 CFR 1.8, and a copy of the reply. Applicant was advised that a Certificate of Mailing under 37 CFR 1.8 is not the same as Certified Mail. If Applicant was unable to demonstrate that he filed the reply in accordance with either 37 CFR 1.10 (Express Mail), or 37 CFR 1.8 (Certificate of Mailing), then 37 CFR 1.6 says that the date of receipt is used. Applicant was again advised that this Office had yet to receive the reply to the Office action.

The present renewed petition

Applicant files the present petition and avers that as of October 7, 2007 and as of the previous 2-3 months no letters of communication or notices have been received from this Office.

Analysis and conclusion

Applicant has demonstrated that he sent correspondence to this Office on October 30, 2007; however, Applicant must provide this Office with **a copy of the contents of the mailing**. **A reply to the Office action is required**.

Alternate venue (Petition to revive)

Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents.

Applicant is further advised that the Office of Independent Inventors, at 703-306-5568; is available to provide assistance in prosecuting patent applications.

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 Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of August 27, 2007 Office action

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/292,688	12/01/2005	Mike Moshe Bannetto Piamenta		9759

7590 08/27/2007

MRA ASSOCIATES
1312 44th St Ste 214
Brooklyn, NY 11219

EXAMINER
LEE, SEUNG H

ART UNIT	PAPER NUMBER
2876	

MAIL DATE	DELIVERY MODE
08/27/2007	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)	
	10/292,688	BANNETTO PIAMENTA, MIKE MOSHE	
	Examiner	Art Unit	
	Seung H. Lee	2876	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 20 March 2006.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Content of Specification

(a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.

(b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.

(c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.

(d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).

(e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

(f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

(1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

(2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

(g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

(k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

(l) Sequence Listing, See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

2. The disclosure is objected to because of the following informalities:

Please delete the phases (i.e., "Exhibit A" and etc.) on from the specification.

Appropriate correction is required.

Drawings

3. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Please delete the phase "Exhibit G" from the drawing.

Claim Rejections - 35 USC § 112

Claim Objections

4. Claim I is objected to because of the following informalities:

Claim number is missing. However, the Examiner will consider the limitation described on the claim page filed on 20 March 2006 as claim 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by O'Hagan et al. (US 6,595,417)(as best understood by the Examiner).

O'Hagan et al. teaches an electronic shopping system comprising a reader (90) for reading barcode affixed on the product by moving the item to the reader when the reader is in the presentation mode as shown in figure 1 and 2, and the user can checking-out by activating checkout button on the main menu (see figs. 1, 2, 14, and 18; col. 8, line 57-col. 9, line 57; col. 17, lines 15-34).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seung H. Lee whose telephone number is (571) 272-2401. The examiner can normally be reached on Monday-Friday, 7:30 AM- 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Seung.lee@uspto.gov
August 17, 2007

SEUNG HO LEE
PRIMARY 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

COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, NY 11576-1696

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NOV 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Lechner et al.	:	
Application No. 10/292,696	:	
Filing or 371(c) Date: 11/12/2002	:	
Attorney Docket Number:	:	
LECHNER ET AL- 2	:	ON PETITION

This is a decision on the Request to Withdraw Holding of Abandonment, filed July 15, 2005, and on the Second Request to Withdraw Holding of Abandonment, filed December 19, 2005. The Requests are properly treated under 37 CFR 1.181(a). 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 non-final Office action, mailed November 26, 2003. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned February 27, 2004. A Notice of Abandonment was mailed July 8, 2004.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action was filed on November 25, 2004, and received by this Office as evidenced by the copy of Applicant's return-receipt postcard. In support of this assertion, Applicant files a copy of the Reply and a copy of his return-receipt postcard acknowledging receipt by this Office of the Reply on November 27, 2004.

A review of the Reply reveals that the Reply contained a Certificate of Mailing under 37 CFR 1.8, certifying that the Reply was mailed to this Office on February 25, 2006. The Certificate of Mailing was executed by Maria Guastella.

While a statement which attests on a personal knowledge basis to the timely mailing of the Reply from Ms. Maria Guastella has not been provided (See 37 CFR 1.8(b)(3), the Certificate of Mailing, coupled with the copy of the return-receipt postcard, provide sufficient evidence of the timely filing of the Reply by Applicant.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The citizenship of inventor Martin Lechner has been corrected in accordance with the Supplemental Declaration, filed August 10, 2006 (Certificate of Mailing dated August 3, 2006).

The application will be referred to Technology Center Art Unit 3676 for processing of the Reply, and for continued 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

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NOV 22 2006

OFFICE OF PETITIONS

In re Application of
Ledyard et al.
Application No. 10/897995
Filing or 371(c) Date: 07/23/2004
Title of Invention: PORTABLE SERVICE IDENTIFICATION, NOTIFICATION AND LOCATION DEVICE AND METHOD

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed as moot**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application, mailed September 21, 2004. The Notice set a two (2) 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 to the Notice on March 25, 2005, including an oath/declaration; a late filing oath or declaration surcharge of $65.00, and a four (4) month extension of time and fee.

Applicant subsequently filed the present petition and fee, and again submitted a late filing oath or declaration surcharge of $65.00, however, the application was not abandoned. Accordingly, the petition is dismissed as moot. Office records indicate that the petition fee and a late filing oath or declaration surcharge were refunded on April 15, 2005.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

In re Application of:	COPY MAILED
David Wong	
Application No. 10/292,697	MAR 31 2003
Filed: November 13, 2002	
Title of Invention: SYSTEM AND METHOD OF A MANAGEMENT INFORMATION BASE (MIB) AUTOCAST IN A COMMUNICATIONS NETWORK	OFFICE OF PETITIONS
	DECISION GRANTING STATUS UNDER 37 CFR 1.47(b)

This is in response to a Petition Under 37 C.F.R. 1.47(b), filed with the above-identified application on November 13, 2002, to allow a person to whom an inventor (or inventors) has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application for patent on behalf of and as agent for the inventor(s).

The petition is **granted**.

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

Petitioner has demonstrated that the non-signing inventor, David Wong, refuses to join the application after having been presented with the above-identified application and declaration for signature.
As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries concerning this matter 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
WASHINGTON, D.C. 20231
www.uspto.gov

Mr. David Wong
2126 Vizcaya Way
Campbell, CA 95008

COPY MAILED

MAR 3 1 2003

OFFICE OF PETITIONS

LETTER

In re Application of:
David Wong
Application No. 10/292,697
Filed: November 13, 2002
Title of Invention: SYSTEM AND METHOD OF A MANAGEMENT INFORMATION BASE (MIB) AUTOCAST IN A COMMUNICATIONS NETWORK

Dear Mr. Wong:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TYSONS CORNER VA 22182

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DEC 06 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
David Wong
Application No. 10/292,697
Filed: November 13, 2002
Attorney Docket No.: 58268.00159

This is a decision on the petition filed October 15, 2007 to withdraw the holding of abandonment, under 37 CFR 1.181 or in the alternative to the suspend the rules which is treated under 37 CFR 1.183.

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.183 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

A reply to the February 27, 2006 Final Office Action was filed March 20, 2006. However, by way of an Advisory Action mailed April 6, 2006, petitioner was advised that the reply did not place the application in condition for allowance. In response thereto, petitioner filed a Notice of Appeal on May 30, 2006. After a Pre-Appeal Brief Request for Review filed May 30, 2006, a Notice of Panel Decision From Pre-Appeal Brief Review mailed August 2, 2006 set a one month period for the filing of the Appeal Brief. The Appeal Brief was filed September 5, 2006 though a Notification of Non-Compliant Brief was mailed December 4, 2006. A Substitute Appeal Brief was filed December 28, 2006 and a second Notification of Non-Compliant Brief was mailed May 4, 2007. A second Substitute Appeal Brief was filed May 22, 2007 after which the Notice of Abandonment was mailed September 11, 2007.

Petitioner argues that they "made every effort in good faith to comply with the formal requirements, and simply was not on notice as to what specific defects were alleged" and thus that the abandonment is improper. Petitioner's arguments have been considered but they are not persuasive.

Petitioners are advised that the failure to file a complete and proper response causes the application to become abandoned. If it wasn't clear what the defects were in the Appeal Brief or some ambiguity existed in the Notification of Non-Compliant Brief, it was incumbent upon the petitioner to have it clarified prior to filing a response. Other resources, including contacting the Examiner prior to the expiration of the period for response, were available to the petitioner to assist in a proper response having been filed.

This application properly became abandoned June 5, 2007 for failure to file a compliant Appeal Brief. Therefore, the Notice of Abandonment mailed September 11, 2007 was appropriate.

In view thereof, the holding of abandonment will not be withdrawn.

With respect to petitioner's prayer for relief under 37 CFR 1.183, which provides that "In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed." But even if that were the authority for the intended relief sought, the petition would fail as relief therein is reserved for extraordinary situations that don't traverse a statutory requirement.

Unfortunately, a "good faith effort to comply with the rules" does not rise to the level of extraordinary circumstances and the instant petition does not contain any further basis upon which the waiver of the rules should be granted.

While no extraordinary circumstances have been presented, no relief can be granted under 37 CFR 1.183.

Accordingly, the petition under 37 CFR 1.183 is **DISMISSED**.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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JAN 23 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
David Wong
Application No. 10/292,697
Filed: November 13, 2002
Attorney Docket No.: 58268.00159

This is a decision on the request for reconsideration filed December 27, 2007 to withdraw the holding of abandonment, under 37 CFR 1.181 or in the alternative to the suspend the rules which is treated under 37 CFR 1.183.

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.183 is **DISMISSED**.

A reply to the February 27, 2006 Final Office Action was filed March 20, 2006. However, by way of an Advisory Action mailed April 6, 2006, petitioner was advised that the reply did not place the application in condition for allowance. In response thereto, petitioner filed a Notice of Appeal on May 30, 2006. After a Pre-Appeal Brief Request for Review filed May 30, 2006, a Notice of Panel Decision From Pre-Appeal Brief Review mailed August 2, 2006 set a one month period for the filing of the Appeal Brief. The Appeal Brief was filed September 5, 2006 though a Notification of Non-Compliant Brief was mailed December 4, 2006. A Substitute Appeal Brief was filed December 28, 2006 and a second Notification of Non-Compliant Brief was mailed May 4, 2007. A second Substitute Appeal Brief was filed May 22, 2007 after which the Notice of Abandonment was mailed September 11, 2007.

Petitioner renews the argument that they "made every effort in good faith to comply with the formal requirements, and simply was not on notice as to what specific defects were alleged" and thus that the abandonment is improper.

The Examiner of Record has reviewed the Amended Appeal Brief filed May 22, 2007 and has noted again, that the Substitute Appeal Brief filed on 05/22/2007 is still non-compliant. In paragraph 2, in the middle of page 4, the Appellant recites 37 CFR 41.37(c)(1)(v), which clearly states that the reference to the specification must be made <u>by page and line number</u>, not by paragraph number. It has been pointed out by the Examiner that petitioner continues to refer to the specification by paragraph number. (See Section VI. Summary of Claimed Subject Matter, page 11 of the Substitute Appeal Brief).

On page 13, the Appellant provides the "correlation between paragraph numbers and page/line numbers of the specifications". 37 CFR 41.37(c)(1)(v), does not call for correlation between paragraph numbers and page and line numbers. It states that the "subject matter defined in each of the independent claims involved in the appeal" shall be referred to the specification by page and line number, not by paragraph number. Per the Examiner, the fact that petitioner later provided the information where each paragraph starts and ends does not, cure this deficiency - the Substitute Appeal Brief still does not refer to the subject matter in the specs by page and line number.

The Examiner opines that the information noted above has been repeated to the petitioner several times and that the reasons for non-compliance were always clear, specific and consistent.

In the 12/04/2006, 05/04/2007 and 09/11/2007 office actions, the instructions were not only non-contradictory, but clear, consistent and non-ambiguous. Petitioner's failure to follow the instructions as given by the Examiner to cure the deficiencies noted in the Substitute Appeal Brief does not afford the petitioner an opportunity to selectively highlight the parts of the statutes which suits him, conveniently omitting the portions that do not, which are clearly stated, and then argue alternatively, that justice would be served by waiving the rules.

This application properly became abandoned June 5, 2007 for failure to file a compliant Appeal Brief. Therefore, the Notice of Abandonment mailed September 11, 2007 was appropriate.

In view thereof, the holding of abandonment will not be withdrawn.

Further, while no extraordinary circumstances have been presented, no relief can be granted under 37 CFR 1.183.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of
David Wong
Application No. 10/292,697
Filed: November 13, 2002
Attorney Docket No.: 58268.00159

ON PETITION

This is a decision on the request for reconsideration filed February 25, 2008 to withdraw the holding of abandonment, under 37 CFR 1.181 or in the alternative to the revive the application under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

A reply to the February 27, 2006 Final Office Action was filed March 20, 2006. However, by way of an Advisory Action mailed April 6, 2006, petitioner was advised that the reply did not place the application in condition for allowance. In response thereto, petitioner filed a Notice of Appeal on May 30, 2006. After a Pre-Appeal Brief Request for Review filed May 30, 2006, a Notice of Panel Decision From Pre-Appeal Brief Review mailed August 2, 2006 set a one month period for the filing of the Appeal Brief. The Appeal Brief was filed September 5, 2006 though a Notification of Non-Compliant Brief was mailed December 4, 2006. A Substitute Appeal Brief was filed December 28, 2006 and a second Notification of Non-Compliant Brief was mailed May 4, 2007. A second Substitute Appeal Brief was filed May 22, 2007 after which the Notice of Abandonment was mailed September 11, 2007. Petitioner renewed their argument that they "made every effort in good faith to comply with the formal requirements, and simply was not on notice as to what specific defects were alleged" and thus that the abandonment is improper.

The Examiner of Record reviewed the Amended Appeal Brief filed May 22, 2007 and noted again, that the Substitute Appeal Brief filed on 05/22/2007 was still non-compliant. Per the Examiner, the fact that petitioner later provided the information where each paragraph starts and ends did not, cure the deficiency - the Substitute Appeal Brief still did not refer to the subject matter in the specs by page and line number and opined that information regarding the deficiencies regarding the appeal brief had been repeated to the petitioner several times and the reasons for non-compliance were always clear, specific and consistent. In the 12/04/2006, 05/04/2007 and 09/11/2007 office actions, the instructions were not only non-contradictory, but clear, consistent and non-ambiguous. Petitioner's failure to follow the instructions as given by the Examiner to cure the deficiencies noted in the Substitute Appeal Brief does not afford the petitioner an opportunity to selectively

highlight the parts of the statutes which suits him, conveniently omitting the portions that do not, which are clearly stated, and then argue alternatively, that justice would be served by waiving the rules.

In view thereof, the application properly became abandoned June 5, 2007 for failure to file a compliant Appeal Brief. Therefore, the Notice of Abandonment mailed September 11, 2007 was appropriate.

In this request for reconsideration, petitioner has not presented any additional persuasive evidence to warrant withdrawing the holding of abandonment.

In the alternative however, the substitute appeals brief filed with the instant petition and based upon the argument that the delay in filing a timely and compliant brief was unintentional, this petition is being considered under 37 CFR 1.137(b).[1]

The Examiner of record has indicated that the Substitute Appeal Brief under 37 CFR 41.37 submitted February 25, 2008 with the instant renewed petition is acceptable.

This application is being forwarded to Technology Center 2155 for review of the Appeal Brief filed February 25, 2008.

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. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

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Paper No. 042205

WOODCOK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
PHILADELPHIA, PA 19103

MAY 16 2005

In re Application of:	:	
COPE, LEONARD DAVID	:	
Serial No.: 10/292,714	:	DECISION ON REQUEST TO WITHDRAW
Filed: November 12, 2002	:	FROM RECORD
Attorney Docket No.: **CRNT-0110**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 08, 2005.

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

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

The request is **APPROVED**.

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

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MANELLI DENISON & SELTER
2000 M STREET NW, SUITE 700
WASHINGTON, DC 20036-3307

UNITED STATES PATENT AND TRADEMARK OFFICE

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250 PARK AVENUE
10TH FLOOR
NEW YORK, NY 10177

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APR 01 2009

OFFICE OF PETITIONS

In re Patent No. 6,860,880 :
Issue Date: March 1, 2005 :
Application No. 10/292,727 : NOTICE
Filed: November 12, 2002 :
Attorney Docket No.: 501038.20549 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

It is noted that the present communication is not signed by the attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of William H. Dippert appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this notice is being mailed to the address noted on this communication, any future correspondence regarding this patent will be directed solely to the address of record.

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 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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WILLIAM H. DIPPERT
ECKERT SEAMANS CHERIN & MELLOTT, LLC
10 BANK STREET
SUITE 1061
WHITE PLAINS, NY 10606

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MANELLI DENISON & SELTER
2000 M. Street N.W., Suite 700
Washington, DC 20036-3307

MAR 10 2006

In re Application of:
COPE *et al.*
Serial No.: 10/292,745
Filed: November 12, 2002
Attorney Docket No.: **CRNT-0079**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed October 25, 2005. The petition has been treated as a petition filed under 37 C.F.R. § 1.181, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The request is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the non-final Office action mailed on February 28, 2005. A Notice of Abandonment was mailed on October 26, 2005.

Petitioner asserts that on July 26, 2005, a response and a petition for a two-month extension of time were timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard, which acknowledges receipt in the USPTO of the response on July 26, 2005.

A review of the application file reveals the above noted response was not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The above-identified response filed July 26, 2005, has since been located and matched with the file wrapper.

For the above stated reason, the petition is granted. 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 of record for consideration of the response and prompt appropriate action.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 24, 2006

TO SPE OF : ART UNIT 3682

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/292751 Patent No.: 6,918,737 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: _____

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER

SPE

3682

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Cynthia M. Bott
Warner-Lambert Company
2800 Plymouth Road
Ann Arbor MI 48105

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of
Berryman, et al.
Application No. 10/292,771
Filed: November 12, 2002
Attorney Docket No. 5792-D1-01-CB
For: BENOXAZINONES/BENZOTHIAZINONES AS SERINE PROTEASE INHIBITORS

DECISION GRANTING PETITION

This is a decision on the petition filed February 20, 2003, to accord the above-identified application a filing date of November 12, 2002.

On November 12, 2002, the application was deposited.

On January 7, 2003, the Office of Initial Patent Examination mailed a Notice stating that the specification was missing and that a filing date would be accorded upon receipt of the missing specification.

In response, the present petition alleges that the specification was inadvertently omitted. However, the Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of parent application no. 09/622,265.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. Based on the incorporation by reference, it appears that the specification was present in the Office on November 12, 2002, albeit in the file of another application, i.e., application No. 09/622,265. Therefore, on petition, the application may be accorded the requested filing date of November 12, 2002.

In view of the above, the petition is **granted**. The copy of the specification, claims, and abstract submitted with the petition will be used for examination purposes.[1] The petition fee of $130 will not be refunded since the petition was required to accord the application the requested filing date.

On other matters: (1) Petitioners are correct in asserting that they are not required to submit another executed declaration. 37 CFR 1.63(d) and (2) Petitioners are informed that the Office has no record of receiving "a copy of the previously filed IDS" mentioned in the petition.

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[1] The Office assumes that the specification, claims, and abstract are a true and exact copy of the specification, claims, and abstract submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant specification and drawings to the disclosure of the parent application in order to verify that the specification, claims, and abstract in fact, parts of the disclosure of the prior application.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 12, 2002, using the application papers filed on November 12, 2002 and the copy of the specification, claims, and abstract filed on February 20, 2003.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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ALFRED W. ZAHER, ESQ.
BLANK ROME LLP
ONE LOGAN SQUARE
130 NORTH 18TH STREET
PHILADELPHIA PA 19103

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Jonathan E. ALEXANDER et al.	:	
Application No. 10/292,777	:	DECISION ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. **119645-00103.31**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed on November 01, 2006. Applicant filed a Request for Continued Examination (RCE) along with a 3-month extension of time on April 30, 2007. However, the RCE was not accompanied by a reply to the final Office action and the time period set-forth in the final Office action continued run. Accordingly the application became abandoned on May 02, 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 (filed April 30, 2007) and the amendment filed concurrently with the instant petition, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the response to the Notice of May 21, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2163 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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10292777 Total Records Found: 9

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
10/19/2007	00005263	4	1453	$1,540.00	10/18/2007	DA 022555
05/03/2007	00000021	1	1801	$790.00	04/30/2007	DA 022555
05/03/2007	00000022	1	1253	$1,020.00	04/30/2007	DA 022555
08/09/2006	00000003	1	2253	$510.00	08/08/2006	DA 020400
11/23/2005	00000001	1	1801	$790.00	11/21/2005	DA 502518
02/18/2003	00000042	1	1051	$130.00	02/12/2003	DA 502518
02/14/2003	00000119	1	8021	$40.00	02/13/2003	DA 502518
11/15/2002	00000013	1	1001	$740.00	11/12/2002	DA 501189
11/15/2002	00000014	1	1202	$342.00	11/12/2002	DA 501189

use RCE form

PTO/SB/64 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 119645-00103.31

First named inventor: Jonathan ALEXANDER

Application No: 10/292,777 Art Unit: 2163

Filed: November 12, 2002 Examiner: C. M. Shechtman

Title: CONTEXT-BASED HETEROGENEOUS INFORMATION INTEGRATION 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 any 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 $ 1,540.00 (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 an Amendment (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.

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

[X] 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	October 18, 2007 Date
Bruce D. George Typed or printed name	43,631 Registration Number, if applicable
BLANK ROME LLP One Logan Square Philadelphia, Pennsylvania 19103-6998 Address	(215) 569-5500 Telephone Number

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

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: October 18, 2007 Signature Jeannette Rayfield (Jeannette Y. Rayfield)

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Schering-Plough Corporation
2000 Galloping Hill Road
K-6-1, Mail Stop 190
Kenilworth, New Jersey 070333

In re Application of
Friary et al.
Application No. 10/292,778
Filed: November 12, 2002
Attorney Docket IN01405K

: DECISION GRANTING PTA REQUEST

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(b)" filed on May 26, 2005 requesting that the Patent Term Adjustment be adjusted from a determination of twenty-six (26) days to a determination of zero (0) days. The Office construes this request as a letter of good faith and candor regarding PTA and accordingly will not assess a fee in bring this discrepancy to the Office's attention.

Applicants' request is **GRANTED.** The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Applicants argue that the Office erred in granting applicants twenty-six (26) days for the Office's failure to respond to applicants' amendment after final within four months.

Applicants' argument have been considered and deemed persuasive. A review of the record reveals that the Office did not violate any of the requirements of 37 CFR 1.702 or 37 CFR 1.703. The twenty-nine day Office delay assessed is in error. The Office did respond to applicants amendment after final filed on October 5, 2004 within four months.[1] Applicants failed to meet the requirement of 37 CFR 1.704(b) on two occasions. First, the applicant responded to the 10/6/2003 non-final rejection on January 9, 2004, a three day delay. In addition, applicants responded to the 4/19/2004 final rejection on July 19, 2004 by filing a notice of appeal, a thirty-one (31) day delay. Accordingly, the overall determination of PTA at the time of the mailing of this decision is zero (0-34=0) days. It is noted that in order for applicant to receive any PTA at the time of the issuance of the patent, the Office must have delayed under 37 CFR 1.702(a)(4) or 1.702(b) by a period of at least 35 days.

[1]The record reflects that the Office did respond to 10/5/2004 on November 16, 2004, within four months by withdrawing the final rejection.

Application No.10/292,778

After the mailing of this Office action, the Office will forward such application to the Office of Patent Publication for a prompt issuance of the patent. Any delays in not issuing the patent within four months of the payment of the issue fee under 37 CFR 1.704(a)(4) will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

The applicants have authorized payment of $200.00 as the fee. However, the Office will not assess the $200.00 fee if applicants out of good faith and candor concerns are bringing to our attention a PTA determination that is greater than what applicants believed the determination correctly should have been calculated.

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

Kery Fries

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

cc: Adjusted PAIR calculation

Day : Friday
Date: 4/21/2006

PALM INTRANET

Time: 15:28:45

PTA Calculations for Application: 10/292778			
Application Filing Date:	11/12/2002	PTO Delay (PTO):	29
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	3
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-60		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48	04/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
47	04/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		29	
37	05/02/2005	MAIL NOTICE OF ALLOWANCE			
36	04/29/2005	ISSUE REVISION COMPLETED			
35	04/29/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	04/29/2005	NOTICE OF ALLOWABILITY			
33	02/01/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
32	02/17/2005	DATE FORWARDED TO EXAMINER			
31	02/01/2005	RESPONSE AFTER NON-FINAL ACTION			
30	11/16/2004	MAIL NON-FINAL REJECTION	29		19
29	11/12/2004	NON-FINAL REJECTION			
28	10/21/2004	DATE FORWARDED TO EXAMINER			
27	10/05/2004	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
26	08/19/2004	NOTICE OF APPEAL FILED			
25	08/19/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	08/19/2004	WORKFLOW INCOMING PETITION IFW			
23	08/10/2004	MAIL ADVISORY ACTION (PTOL - 303)			
21	07/27/2004	ADVISORY ACTION (PTOL-303)			
20	06/29/2004	DATE FORWARDED TO EXAMINER			
19	06/18/2004	AMENDMENT AFTER FINAL REJECTION			
18	11/12/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
17	06/18/2004	WORKFLOW INCOMING AMENDMENT IFW			

16	04/19/2004	MAIL FINAL REJECTION (PTOL - 326)			
15	04/16/2004	FINAL REJECTION			
14	02/05/2004	DATE FORWARDED TO EXAMINER			
13	01/09/2004	RESPONSE AFTER NON-FINAL ACTION		3	9
12	11/06/2003	REFERENCE CAPTURE ON IDS			
11	11/06/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	10/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	10/06/2003	MAIL NON-FINAL REJECTION			
8	09/30/2003	NON-FINAL REJECTION			
7	01/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	01/13/2003	APPLICATION DISPATCHED FROM OIPE			
5	01/13/2003	APPLICATION IS NOW COMPLETE			
3	12/31/2002	CLEARED BY L&R (LARS)			
2	11/18/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/12/2002	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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/18/2006

TO SPE OF : ART UNIT **1600 (1625)**

SUBJECT : Request for Certificate of Correction on Patent No.: 7,071,213

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 – 2900 South Tower ste.9A43A
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.

***ok to delete tables as req. in COCIN in Madras?**

Thank You For Your Assistance

Ernest C. White, LIE (703) 308-9390x122
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 — 1625 Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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CALIPER LIFE SCIENCES, INC.
605 FAIRCHILD DRIVE
MOUNTAIN VIEW CA 94043-2234

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OFFICE OF PETITIONS

In re Application of :
Richard J. McReynolds et al. :
Application No. 10/292,816 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. 100/12201 :

This is a decision on the request for withdrawal of abandonment, filed June 21, 2005 and which is treated under 37 CFR 1.181.

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

The application was held abandoned on December 9, 2004, for failure to timely a response to the non-Final Office Action mailed September 8, 2004. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on March 21, 2005.

Petitioner asserts that a proper response in the form of an amendment with a three month extension of time was filed on March 8, 2005 (certificate of mail date). Submitted as proof is a post card receipt date stamped March 14, 2005 by the USPTO and a copy of the response with a certificate of mail dated March 8, 2005.

A search of the application file and the USPTO records reveals that in fact, an amendment and three month extension of time were timely filed with a certificate of mail on March 14, 2005.

Accordingly, the Notice of Abandonment mailed March 21, 2005 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

Additionally, a copy of the extension of time filed with response on March 14, 2005 was submitted with the instant petition. The office inadvertently charged petitioner's deposit account for the three month extension of time. However, petitioner's deposit account will be credited in the amount of $1020.00 for the duplicate payment.

This matter is being referred to Technology Center 3753 for treatment of the response filed March 14, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 24 2003

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#3

THOMAS W. HANSON
3555 S. SHERMAN ST.,
SUITE 1
ENGLEWOOD, CO 80110

In re Application of	:	
W. Nickels	:	
Serial No.: 10/292,826	:	DECISION ON PETITION
Filed: November 12, 2002	:	
For: Pinch Clamp Cover	:	

This is in response to applicants' petition filed November 12, 2002 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, 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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ONE AT&T WAY
BEDMINSTER NJ 07921

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OFFICE OF PETITIONS

In re Application of :
Zoran KOSTIC et al. :
Application No. 10/292,863 : DECISION ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. **2001-0549** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 08, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 15, 2008. Accordingly, the date of abandonment of this application is April 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance 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.

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 Tredelle Jackson at (571) 272-2783.

This application is being referred to The Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **JEFFREY M. WEINICK**
WEINICK & ASSOCIATES, LLC
615 WEST MOUNT PLEASANT AVENUE
LIVINGSTON, NJ 07039

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CHARLES E. BAXLEY, P.C.
5TH FLOOR
59 JOHN STREET
NEW YORK NY 10038

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hsin-Tien Chang :
Application No. 10/292,879 :
Filed: November 13, 2002 :
Attorney Docket No. 13341 B :

This is a decision on the petition filed April 7, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned July 14, 2005 for failure to timely pay the issue fee on or before July 13, 2005. Accordingly, a Notice of Abandonment was mailed September 19, 2005.

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

Also, the address shown on the petition differs from the address of record. The mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, without mentioning the fact that

---

[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)).

an address change was made, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c).

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
CHARLES E. BAXLEY, P.C.
90 JOHN STREET
SUITE 309
NEW YORK NY 10038

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Wilmington, DE 19805

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OFFICE OF PETITIONS

In re Application of	:	
Leo Ernest Manzer	:	
Application No. 10/292,881	:	ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. CL1826 US NA	:	

This is a decision on the petition filed February 22, 2005, under 37 CFR 1.181 to withdraw the holding of abandonment, or in the alternative, under 37 CFR 1.137(b) to revive the above-identified application.

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

A non-final Office action was mailed to applicant on June 22, 2004 that set a three-month shortened statutory period within which to submit a reply. Since no reply was allegedly received, the application became abandoned on September 23, 2004.

Petitioner asserts that a reply was timely submitted to the Office via facsimile transmission on September 17, 2004, using a Certificate of Transmission under 37 CFR 1.8. The evidence is convincing that a reply was timely filed and received in the Office. Additionally, a review of the file record shows that the papers have been located and have been associated with the application file. In view of the above, the application was improperly abandoned. No petition fee is required for the instant petition.

The application file is being referred to Technology Center 1600 for further prosecution of the application.

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

Marianne E. Jenkins

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

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5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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OFFICE OF PETITIONS

In re Application of
Allen J. Duplantier et al
Application No. 10/292,887
Filed: November 12, 2002
Attorney Docket No. PC23106A

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 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 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[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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JJGJr: 06-06

Paper No: __

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of
Neale, et al. :
Application No. 10/292,899 : ON PETITION
Filed: 13 November, 2002 :
Attorney Docket No.: 87024-0004 :

This is a decision on the petition filed (with fee) on 17 August, 2005, under 37 C.F.R. §1.182 to correct the order of inventorship to be consistent with the signed oath/declaration.

The petition 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.

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

Petitioner is reminded to submit a corrected and supplemental Application Data Sheet (ADS), consistent with the commentary at MPEP §605.04(f), setting forth the corrected order of inventors and their respective residencies.

A non-final Office action was mailed on 19 May, 2005, with a reply due absent extension of time

on or before 19 August, 2005. The application went abandoned after midnight 19 August, 2005. The Office mailed the Notice of Abandonment on 23 January, 2006.

Moreover, Petitioners Celine Jimenez Crowson (Reg. No. 40,357), Ajit J. Vaidya (Reg. No. 43,214, and Thomas W. Edman (Reg. No. 51,643) submitted insufficient fees for/with the instant petition and, further, failed to authorize a charge to a deposit account.

The instant application stands abandoned. In order for the Office to address the instant matter, Petitioner must file a petition to revive under 37 C.F.R. §1.137.

Failure to file timely the petition, fee, reply and make the statement of unintentional delay may be a demonstration of intentional delay.

Further correspondence with respect to this matter should be addressed as follows:[1]

By mail: Commissioner for Patents[2]
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

[1] 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 .)

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

FAX RECEIVED

AUG 04 2005

OFFICE OF PETITIONS

In re Application of
Andrew M. Pether et al.
Application No. 10/292,900
Filed: November 13, 2002
Attorney Docket No.: 87024-0005

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed July 27, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Andrew M. Pether
2. Jason Neale
3. Abdul-Kader Mohsen
4. Guy Begin

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to the Office of Publications.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: 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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IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

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NOV 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Neale et al. :
Application No. 10/292,901 :
Filed: November 13, 2002 :
Attorney Docket No. 87024-0003 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed August 17, 2005, to change the order of the names of the inventors.

The petition is **dismissed**.

The fee for a petition under 37 CFR 1.182 is $400.[1] Petitioner only submitted $130. Therefore, the Office will not consider the merits of the petition.

Any request for reconsideration should be accompanied by $270. The request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

If a request for reconsideration is not filed, the order of the inventors will remain unchanged.

---

[1] As of November 1, 2004, the fee for a petition under 37 CFR 1.182 is $400. See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

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MAR 1 0 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Neale et al.	:	
Application No. 10/292,901	:	
Filed: November 13, 2002	:	
Attorney Docket No. 87024-0003	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed December 30, 2005, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors has been changed as follows:

1. Andrew M. Pether
2. Jason Neale
3. Abdul-Kader Mohsen
4. Guy Begin

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/292,901	11/13/2002	2664	880	87024-0003	3	10	3

CONFIRMATION NO. 4763
CORRECTED FILING RECEIPT
OC000000018251037
OC000000018251037

24633
HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

Date Mailed: 03/09/2006

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 M. Pether, Pincourt, CANADA;
Jason Neale, Montreal, CANADA;
Abdul-Kader Mohsen, Montreal, CANADA;
Guy Begin, Montreal, CANADA;

Assignment For Published Patent Application

EMS Technologies, Inc.

Power of Attorney:

Celine Crowson--40357
Ajit Vaidya--43214

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/333,608 11/13/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/10/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/292,901

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Flow control between performance enhancing proxies over variable bandwidth split links

Preliminary Class

370

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

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

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

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JUL 10 2006

OFFICE OF PETITIONS

In re Application of
Mark E. Pennell, et al.
Application No. 10/292,924
Filed: November 12, 2002
Attorney Docket No. CLAR 1020-1

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 10, 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 October 1, 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. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 19, 2006 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center Art Unit 2152 for further prosecution.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/292,924	11/12/2002	Mark E. Pennell	CLAR 1020-1

CONFIRMATION NO. 5618

22470
HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

Date Mailed: 07/07/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 10/19/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 6

Anthony S. Zummer
Suite 1222
39 S. LaSalle Street
Chicago IL 60603

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AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Jennifer L. Bath :
Application No. 10/292,931 :
Filed: November 13, 2002 :
Attorney Docket No. 3488-1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed on July 2, 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(a)" or "Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on March 8, 2003, for failure to submit a timely reply to Notice to File Corrected Application Papers mailed on January 7, 2003, which set a two (2) month extendable period for reply. A Notice of Abandonment was mailed on June 18, 2004.

Petitioner asserts that on February 10, 2003, the attorney for petitioner submitted to the USPTO an Amendment cancelling Figures 1, 2, 3, 4, 5, 6, 7, and 8, and substituting amended Figures 1, 2, 3, 4, 5, 6, 7, and 8, a copy of which accompanies the petition.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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 § 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

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

This petition lacks items (1) and (3) above.

As to item (1), the Office notes that the Notice to File Corrected Application Papers stated the following:

A) Petitioner must provide replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121

B) Petitioner must provide an initial computer readable form (CRF) copy of the "Sequence Listing," an initial paper or compact disc copy of the "Sequence Listing," as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing, and, where applicable, includes no new matter as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the USPTO, such a request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

C) Figure 2 described in specification appeared to have been omitted.

Upon review of the file, the Office has located the amendment to the drawings filed on February 19, 2003, as well as Figure 2 which was submitted on filing. However, it does not appear that petitioner complied with the requirements of 37 CFR 1.821-1.825 as indicated above.

As to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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

Petitioner did not indicate in the present petition that he submitted a response in compliance with the requirements of 37 CFR 1.821-1.825. Furthermore, no such response is located in the file.

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 by the Office. See MPEP 503.

Upon review of the record, the Office finds that petitioner did not submit any proof that he complied with the requirements of 37 CFR 1.821-1.825 as set forth in the Notice of January 7, 2003. A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[3]

In any renewed petition, petitioner must submit an initial computer readable form (CRF) copy of the "Sequence Listing," an initial paper or compact disc copy of the "Sequence Listing," as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing, and, where applicable, includes no new matter as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the USPTO, such a request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF. These items listed above must be accompanied by a timely certificate of mailing as specified in 37 CFR 1.8 or an itemized return postcard in accordance with MPEP 503 to establish timely mailing of the reply. In the absence of such, there is no evidence to show that the response was received timely in the USPTO.

---

[3] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

As petitioner has presented no showing of unavoidable delay, the petition is dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Should petitioner decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $1,330.00 (large entity).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/64
Privacy Act Notification Form

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 9

Anthony S. Zummer
Suite 1222
39 S. LaSalle Street
Chicago IL 60603

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NOV 03 2004

OFFICE OF PETITIONS

In re Application of :
Jennifer L. Bath :
Application No. 10/292,931 : ON PETITION
Filed: November 13, 2002 :
Attorney Docket No. 3488-1 :

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

This application became abandoned on March 8, 2003, for failure to submit a timely reply to Notice to File Corrected Application Papers mailed on January 7, 2003, which set a two (2) month extendable period for reply. A Notice of Abandonment was mailed on June 18, 2004. Petitioner filed a petition under 37 CFR 1.137(a) on July 2, 2004, which was dismissed by the decision of August 4, 2004.

Petitioner has meet the requirements pursuant to 37 CFR 1.137(b). Accordingly, the petition is granted.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JJGJR.: 08-05

Paper No: __

MEADWESTVACO CORPORATION
299 PARK AVENUE, 13TH FLOOR
NEW YORK NY 10171

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AUG 1 2 2005

OFFICE OF PETITIONS

In re Application of
Jones :
Application No. 10/292,939 : ON PETITION
Filed: 13 November, 2002 :
Attorney Docket No. AGI 02-32 :

This is a decision on the renewed petition filed on 17 July, 2005, to revive the above-identified application under 37 C.F.R. §1.137(b) as abandoned due to unintentional delay.

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 Notice of Allowance and Fees Due (as to the drawing requirement of the Notice of Allowability) mailed on 24 November, 2004, with reply due under a non-extendable deadline on or before 24 February, 2005;
- the application went abandoned by operation of law after midnight 24 February, 2005;
- the Office mailed the Notice of Abandonment on 25 May, 2005;
- with the instant petition with fee, Petitioner filed the drawings as the reply (the Issue and

Publication Fees previously were paid), 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).[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.

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, the statement (and possibly a showing) of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

---

[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.

Petitioner has satisfied the requirements of 37 C.F.R.§1.137(b).

CONCLUSION

Accordingly, the instant 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.

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

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

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ORGANON USA, INC.
c/o Schering-Plough Corporation
2000 Galloping Hill Road
Mail Stop: K-6-1, 1990
Kenilworth NJ 07033

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DEC 0 9 2008

OFFICE OF PETITIONS

In re Application of
Wan et al.
Application No. 10/292,950
Filed: November 12, 2002
Attorney Dkt. No. 2002.746USPD

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed November 10, 2008.

The petition to withdraw the holding of abandonment is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This above-identified application became abandoned for failure to timely file an Appeal Brief. A Notice of Appeal was filed on October 24, 2007. A Pre-Appeal Request for Review was filed on November 26, 2007. A Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 21, 2008 informed petitioner the request was improper. A Notice of Abandonment was mailed September 10, 2008.

Petitioner contends that the time period to file the Appeal Brief began one month after the mailing of the panel decision. Thus, petitioner argues that the submission of the Appeal Brief on November 24, 2008 with a two month extension of time was timely. Lastly petitioner states that the time period between filing the Pre-Appeal Request for Review and the mailing of the Notice of Panel Decision was unduly long.

Petitioner's argument has been considered but deemed unpersuasive. Pursuant to the July 12, 2005 OG Notice "New Pre-Appeal Brief Conference Pilot Program" paragraph 7, " the request must be filed with the filing of a notice of appeal and before the filing of the appeal brief". Further paragraph 8 states a request for Pre-Appeal Brief Conference filed after the date of receipt of the notice of appeal will be dismissed as untimely.

Thus, the improper request for Pre-Appeal Brief Request for Review did not toll the time period for submission of the Appeal Brief. Petitioner was clearly on Notice via the New Pre-Appeal Brief Conference Pilot Program, that the request for Appeal Brief Conference had to be accompanied with the Notice of Appeal. A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable". See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). Nor does it warrant a finding that a withdrawal of the holding of abandonment is in order.

Further a review of the Notice of Panel Decision clearly states that the November 26, 2007 response was improper and that the time period for filing a response continues to run from the receipt date of the Notice of Appeal.

Any perceived delay which may have occurred with the mailing of Notice of Panel Decision does not overcome petitioner's improper submission of the request. The onus was on petitioner to file an appropriate request at the appropriate time.

This application remains abandoned as the last day to file the Appeal Brief with the maximum extendable time period was May 24, 2008.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable."

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to

the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Kenyon & Kenyon, LLP
One Broadway
New York, NY 10004
Attn: Willem F.C. de Weerd

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c/o Schering-Plough Corporation
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Mail Stop: K-6-1, 1990
Kenilworth NJ 07033

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of :
Wan et al. :
Application No. 10/292,950 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. 2002.746USPD :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file an Appeal Brief. A Notice of Appeal was filed on October 24, 2007. A Pre-Appeal Request for Review was filed on November 26, 2007. A Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 21, 2008 informed petitioner the request was improper. A Notice of Abandonment was mailed September 10, 2008. A petition filed under 37 CFR 1.181 was dismissed on December 8, 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 Appeal Brief and fee of $540.00; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 1657 for processing of the Appeal Brief by the Examiner in the normal course of business.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Kenyon & Kenyon, LLP
One Broadway
New York, NY 10004
Attn: Willem F.C. de Weerd

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ATTN: NOREEN JOHNSON
IP LEGAL DEPARTMENT
2600 SOFAMOR DANEK DRIVE
MEMPHIS TN 38132

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
William F. MCKAY et al.	:	
Application No. 10/292,951	:	DECISION ON PETITION
Filed: November 13, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 48170.00036	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 15, 2009, 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 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 applications 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 applications. An incorporation by reference statement

added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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.

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

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401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

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MEMPHIS TN 38132

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JUN 07 2010
OFFICE OF PETITIONS

In re Application of	:	
William F. MCKAY	:	
Application No. 10/292,951	:	DECISION ON PETITION
Filed: November 13, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 48170.00036/PC681.00	:	

This is a decision on the petitions under 37 CFR 1.78(a)(3), filed June 15, 2009 and renewed September 01, 2009, 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 with the petition.

A review of both petitions indicates that priority was properly claimed in the petition filed June 15, 2009. Therefore, the petition filed September 01, 2009 is **Dismissed as Moot**.

The petition filed June 15, 2009 is hereby **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. 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 1633 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Thurman K. Page
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/292,951	11/13/2002	1633	1594	48170.00036/PC681.00	50	4

CONFIRMATION NO. 6441

CORRECTED FILING RECEIPT

67676
Medtronic
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

OC000000041976852

Date Mailed: 06/07/2010

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)

William F. McKay, Memphis, TN;
Scott D. Boden, Atlanta, GA;
Sangwook T. Yoon, Atlanta, GA;

Assignment For Published Patent Application

Emory University

Power of Attorney: The patent practitioners associated with Customer Number 29880

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/331,321 11/14/2001
and is a CIP of 09/986,625 11/09/2001 PAT 6,858,431
which is a DIV of 09/721,975 11/27/2000 PAT 6,444,803
which is a CON of 09/124,238 07/29/1998 PAT 6,300,127
which claims benefit of 60/054,219 07/30/1997
and claims benefit of 60/080,407 04/02/1998

Foreign Applications

If Required, Foreign Filing License Granted: 02/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/292,951**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods of expressing LIM mineralization protein in non-osseous cells

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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Paper No. 7

CHARLES E. BAXLEY
90 JOHN STREET – 3RD FLOOR
NEW YORK, NY 10038

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Martin Rose et al :
Application No. 10/292,965 :
Filed: November 13, 2002 :
Attorney Docket No. 13195 B

NOTICE

CORRECTED 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**.

The Notice mailed October 2, 2003 is hereby vacated as of the mail date of this Notice. The Office sincerely apologizes for any inconvenience caused petitioner in the matter.

Inquiries related to this communication should be directed to Irvin Dingle at (703) 306-5684.

This file is being forwarded to Technology Center AU 3725.

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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GREER, BURNS & CRAIN, LTD.
300 SOUTH WACKER DRIVE, SUITE 2500
CHICAGO, IL 60606

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NOV 28 2007

OFFICE OF PETITIONS

In re Application of	:
Takeshi Okazaki	:
Application No. 10/292,980	: DECISION GRANTING PETITION
Filed: November 13, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 094.67134	:

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 November 5, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2875 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 24 2007

In re Patent No. CHAPUIS ET AL.
Issue Date: May 23, 2006
Appl No.: 10/293,001
Filed: November 13, 2002
For: Karl Easthom AU2838

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed 2/05/2007 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.

Karl D. Easthom
Supervisory Patent Examiner
Art Unit 2838
Technology Center 2800

BRIAN M BERLINER, ESQ
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

UNITED STATES PATENT AND TRADEMARK OFFICE

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DATE: May 22, 2007
TO: Certificates of Correction Branch
FROM: Karl D. Easthom
SPE, Art Unit 2838
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,049,798 as specified on the attached Certificate.

Karl D. Easthom, SPE
Art Unit 2838

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,049,798
Patented: May 23, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Alain Chapuis
Mikhail Guz

Karl D. Easthom
Supervisory Patent Examiner
Art Unit 2838

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

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON TX 77253-3267

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NOV 20 2003

OFFICE OF PETITIONS

In re Application of Wylie, Zamora, Terry, Murali, Brothers, Palmer, Reddy, Eoff, Weaver, Wilson, Berryhill, Fitsgerald, Rao, Culotta, Boulton, Chen, Gaynor, Hardin, Gleitman, and Walker Application No. 10/293,013 Filed: 13 November, 2002 Atty Docket No. 1391-27602	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 7 November, 2003.

The petition is **GRANTED**.

Petitioners have shown that non-signing joint inventor Denise M. Berryhill has refused to join in the filing of this application. Specifically, petitioners have shown that a copy of the application papers was sent to joint inventor Berryhill, but that she failed to sign and return the declaration. Petitioners have also provided a declaration signed by joint inventors Anne M. Culotta and M. Vikram Rao.

It is noted that the declaration filed on 16 May, 2003, lists Rao as the thirteenth inventor and Culotta as the fourteenth inventor, but that the declaration page filed with the present petition, signed by Rao and Culotta lists Culotta as the thirteenth inventor and Rao as the fourteenth inventor. 37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63.[1] As such, the order of inventor's names will remain as specified in the declaration filed on 16 May, 2003. If petitioners desire to change the order of inventors, a petition under 37 CFR 1.182, accompanied by the required fee, must be filed.

[1] MPEP 605.

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.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW 09-03

Paper No. 9

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON TX 77253-3267

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SEP 22 2003

OFFICE OF PETITIONS

In re Application of :	
Wylie, Zamora, Terry, Murali, :	
Brothers, Palmer, Reddy, Eoff, :	
Weaver, Wilson, Berryhill, :	
Fitsgerald, Rao, Culotta, Boulton, :	DECISION REFUSING STATUS
Chen, Gaynor, Hardin, Gleitman, and:	UNDER 37 CFR 1.47(a)
Walker :	
Application No. 10/293,013 :	
Filed: 13 November, 2002 :	
Atty Docket No. 1391-27602 :	

This is in response to the petition filed under 37 CFR 1.47(a) on 16 May, 2003 (certificate of mailing date 13 May, 2003).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 13 November, 2002, without an executed oath or declaration. Accordingly, on 13 January, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring a signed oath or declaration and a surcharge for its late filing. In response, on 16 May, 2003 (certificate of mailing date 13 May, 2003)), petitioners filed the present petition with authorization to charge the petition fee, the late filing surcharge, a two (2) month extension of time, an executed declaration signed by all joint inventors except Denise Berryhill, M. Vikram Rao, and Anne M. Culotta on behalf of themselves and joint inventor Berryhill. The present petition asserts that a copy of the application was

sent to joint inventor Berryhill via USPS Express Mail, but that she failed to sign and return the declaration. A copy of the USPS Track & Confirm database printout showing the Express Mail envelope was signed for by D. Berryhill was also included.

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

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

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

(3) the petition fee; and

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

In response to item (2), the declaration is missing the signatures of joint inventors Rao and Culotta, for whom a Rule 1.47 petition has not been filed. Any renewed petition should be accompanied by a declaration in accordance with 37 CFR 1.63 and 1.67 containing the signatures of Rao and Culotta.

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

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Sandra Poteat Thompson
Riordan & McKinzie
Plaza Tower
600 Anton Blvd., 18th Floor
Costa Mesa CA 92626-1924

COPY MAILED

JUL 1 4 2003

OFFICE OF PETITIONS

In re Application of Lau et al. Application No. 10/293,024 Filed: November 12, 2002 Attorney Docket No. 51-008-015 For: LOW DIELECTRIC CONSTANT ORGANIC DIELECTRICS BASED ON CAGE-LIKE STRUCTURES	ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed April 15, 2003 (certificate of mailing April 10, 2003)[1] and supplemented on May 27, 2003.

The petition is dismissed.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On November 12, 2002, applicant filed the above-identified application, without an executed oath or declaration. Accordingly, on December 17, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on April 15, 2003 (certificate of mailing April 10, 2003), applicant filed, *inter alia*, the present petition, a declaration signed by all of the joint inventors except for Feng Quan Liu, and paid the requisite fees.

[1] Applicant obtained a two-month extension of time to reply.

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

As to item (1), the record fails to demonstrate, with a documented showing, that the non-signing inventor was presented with a complete copy of the application papers. Unless Mr. Liu was presented with a copy of the application papers (specification, claims and drawings), he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration. See 409.03(d). Applicant should show that a copy of the application papers was presented to the inventor, but that he did not respond to the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events.

Accordingly, applicant has not met the requirements of 37 CFR 1.47(a), and thus, the petition must be dismissed.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Sandra Poteat Thompson
Riordan & McKinzie
Plaza Tower
600 Anton Blvd., 18th Floor
Costa Mesa CA 92626-1924

COPY MAILED

SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of Lau et al. Application No. 10/293,024 Filed: November 12, 2002 Attorney Docket No. 30-4907 DIV2 (4780) For: LOW DIELECTRIC CONSTANT ORGANIC DIELECTRICS BASED ON CAGE-LIKE STRUCTURES	ON PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 8, 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 statement of facts of Sandra Poteat Thompson establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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

The application file is being forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Feng Quan Liu
202 Calvert Dr. #254
Cupertino, CA 95014

COPY MAILED

SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Lau et al. :
Application No. 10/293,024 :
Filed: November 12, 2002 :
Attorney Docket No. 30-4907 DIV2 :
(4780) :
For: LOW DIELECTRIC CONSTANT :
ORGANIC DIELECTRICS BASED ON :
CAGE-LIKE STRUCTURES :

LETTER

Dear Mr. Liu:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Sandra Poteat Thompson
Riordan & McKinzie
Plaza Tower
600 Anton Blvd., 18th Floor
Costa Mesa CA 92626-1924

DELPHI

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Commissioner for Patents on the date shown below.

Brenda D. Chambers

Brenda D. Chambers
21-Jun-2004
(Date)

Date:	June 21, 2004		
To:	Commissioner for Patents Office of Patent Publication	Fax: Phone:	(703) 308-5083
From:	Patrick M. Griffin Attorney of Applicant	Fax: Phone:	(248) 813-1211 (248) 813-1215

Subject: USSN 10/293,031 filed 11/13/2002 (Attorney Docket No. DP-308002)
Group Art Unit: 3661.

c:

Number of pages including cover sheet: 3 **pages**

Problems with the receipt of this transmission, contact Brenda Chambers at (248) 813-1206

☐ Urgent ☐ For Review ☐ Please Reply

Pursuant to the attached communication from the office of petitions, attached is a copy of the original Issue Fee Transmittal Form (PTOL-85b) which was not received by the Patent Office. **Please note that a total of $2,960.00 has already been charged to Deposit Account No. 50-0831** -- $1,330.00 for the petition to revive an unintentionally abandoned application, $1,330.00 for the issue fee and $300.00 for the publication fee.

This file should now be in condition to issue.

P. M. Griffin

Patrick M. Griffin
Reg. No. 29716

The information contained in this facsimile message is confidential information intended only for the use of the individual or entity named above, and may be privileged. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and delete the original message. Thank you.

Delphi Technologies, Inc., Legal Staff, P.O. Box 5052, Troy, Michigan 48007-5052

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

PATRICK M. GRIFFIN
DELPHI TECHNOLOGIES INC
LEGAL STAFF, MAIL CODE: 480-410-202
P.O. BOX 5052
TROY, MI 48007-5052

COPY MAILED

JUN 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Mingyu Wang et al	:	
Application No. 10/293,031	:	ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No. DP-308002	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed December 31, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 1, 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.

Pursuant to petitioner's authorization, Deposit Account No. 50-0831 was charged a total of $2,960.00 -- $1,330.00 for the petition to revive an unintentionally abandoned application, $1,330.00 for the issue fee and $300.00 for the publication fee.

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

RECEIVED/DELPHI

JUN 1 8 2004

Legal Staff

Attachment: PTOL-85(b)

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590 12/31/2003

PATRICK M. GRIFFIN
DELPHI TECHNOLOGIES, INC.
Legal Staff, Mail Code: 480-410-202
P.O. Box 5052
Troy, MI 48007-5052

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

Susan Grisha (Depositor's name)
Susan Grisha (Signature)
3-8-04 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/293,031	11/13/2002	Mingyu Wang	DP-308002	7259

TITLE OF INVENTION: AUTOMATIC CLIMATE CONTROL WITH TUNABLE TRANSIENT RESPONSE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1330	$300	$1630	03/31/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
ZANELLI, MICHAEL J	3661	701-036000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Patrick M. Griffin
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: DELPHI TECHNOLOGIES, INC.

(B) RESIDENCE: (CITY and STATE OR COUNTRY): TROY, MICHIGAN

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ individual ☑ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

☑ Issue Fee.

☐ Publication Fee

☐ Advance Order - # of Copies 2

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 50D8.31 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) Susan Grisha (Date) 3-8-04

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

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

TRANSMIT THIS FORM WITH FEE(S)

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

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

Mail Date: 04/23/2010

Applicant	: Vladimir L. Makarov	: DECISION ON REQUEST FOR
Patent Number	: 7655791	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/293,048	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1719** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Dairaghi et al.	:	
Application No. 10/293,050	:	DECISION ON APPLICATION
Filed: November 13, 2002	:	FOR
Atty Docket No. DX0506B	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed March 24, 2006. Applicants request correction of the patent term adjustment from ninety-eight (98) days to ninety-nine (99) 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 **ninety-nine (99) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 30, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is ninety-eight (98) days. Applicants timely filed the instant application for patent term adjustment[1].

Applicants dispute the reduction of eighty-four (84) days for applicants' delay in responding to the non-final Office action mailed November 2, 2004. Applicants state that their response

[1] PALM Records indicate that the Issue Fee payment was received on March 28, 2006.

was filed on April 26, 2005, and thus, the reduction pursuant to § 1.704(b) should only be eighty-three (83) days. In support thereof, applicants submit a copy of their Auto-Reply Facsimile Transmission, associated with the filing of their response to the nonfinal Office action.

Consideration of applicants' evidence is unnecessary. A review of the application file confirms that the response was filed on April 26, 2005. The "Amendment and Response" is present in the application with a date of receipt in the Office of April 26, 2005, stamped thereon. Under these circumstances, the date of receipt of the response on April 26, 2005, should be properly used for purposes of calculating compliance with 37 CFR § 1.704(b). The response was complete and proper, but was filed outside of the three-month period under § 1.704(b). Thus, the Office should have assessed applicants a delay of eighty-three days (83) days, not eighty-four (84) days.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is **ninety-nine (99) 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. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Friday
Date: 9/29/2006

PALM INTRANET

Time: 15:31:46

PTA Calculations for Application: 10/293050			
Application Filing Date:	11/13/2002	PTO Delay (PTO):	182
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	84
Post-Issue Petitions:	0	Total PTA (days):	99
PTO Delay Adjustment:	1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
51	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	84		
50	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		83	
38	12/30/2005	MAIL NOTICE OF ALLOWANCE			
37	12/22/2005	ISSUE REVISION COMPLETED			
36	12/22/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	12/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
34	12/22/2005	NOTICE OF ALLOWABILITY			
33	12/05/2005	NOTICE OF APPEAL FILED			
32	12/05/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	10/07/2005	DATE FORWARDED TO EXAMINER			
30	09/30/2005	AMENDMENT AFTER FINAL REJECTION			
29	09/12/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
28	09/07/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
27	07/12/2005	MAIL FINAL REJECTION (PTOL - 326)			
26	07/11/2005	FINAL REJECTION			
25	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	05/05/2005	DATE FORWARDED TO EXAMINER			
23	04/27/2005	RESPONSE AFTER NON-FINAL ACTION		84	21
22	04/27/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	11/02/2004	MAIL NON-FINAL REJECTION			
20	11/01/2004	NON-FINAL REJECTION			
19	08/26/2004	DATE FORWARDED TO EXAMINER			

18	08/11/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
17	08/11/2004	WORKFLOW INCOMING AMENDMENT IFW			
16	07/13/2004	MAIL RESTRICTION REQUIREMENT	182		-1
15	07/12/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
14	02/11/2003	PRELIMINARY AMENDMENT			
13	09/29/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	01/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/04/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	03/07/2003	APPLICATION DISPATCHED FROM OIPE			
9	03/06/2003	APPLICATION IS NOW COMPLETE			
8	02/07/2003	ADDITIONAL APPLICATION FILING FEES			
7	02/07/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
6	02/28/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	01/14/2003	SEQUENCE ERRORS			
3	12/31/2002	CLEARED BY L&R (LARS)			
2	11/20/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/13/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CLARK & ELBING, LLP
101 FEDERAL STREET
BOSTON, MA 02110

COPY MAILED

APR 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Frank Aguilera et al.	:	
Application No. 10/293,076	:	DECISION ON PETITION
Filed: November 13, 2002	:	TO WITHDRAW
Attorney Docket No. 50111/028002	:	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 9, 2007.

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

A review of the file record indicates that all the previous powers of attorney have been revoked by the assignee, Caprion Pharmaceuticals, Inc., of the patent application on February 15, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Applicant is advised that a non-final rejection was mailed on November 14, 2006. Failure to timely file a proper reply within the extendable period will result in the abandonment of this application.

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

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Matthrew J. Marquardt
Torys, LLP
79 Wellington Street, West
Suite 3000
Toronto, Canada M5K 1N2

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/293,076	11/13/2002	Frank Reinaldo Morales Aguilera	50111/028002

CONFIRMATION NO. 6502

OC000000023390729

21559
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

Date Mailed: 04/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/15/2007.

- 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 Gravinet

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

FORMER ATTORNEY/AGENT COPY

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MAY 11 2007

TECHNOLOGY CENTER 3600

Dinsmore & Shohl, LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, OH 45202

In re application of
Harold J. Liff et al.
Application No. 10/293,087
Filed: November 13, 2002
For: METHOD FOR CONTROLLING A DRUG DISPENSING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This is a decision on the petition filed on May 3, 2007 to make the above-identified application special for Infringement under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special for Infringement under 37 C.F.R. § 1.102(d) is not acceptable at least because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on May 3, 2007 with a Certificate of Mail date of the same date, the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Special Program Examiner, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 5/9/07

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 21, 2008

TO SPE OF : ART UNIT 2157

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/293091 Patent No.: 7353264 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: _____

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2157
Art Unit

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OFFICE OF PETITIONS

In re Application of	:	
Masoud R. Jafari	:	
Application No. 10/293,094	:	ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No.: 1834FA USA	:	

This is a decision on the petition filed May 25, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 7, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the expiration of the application, this application became abandoned January 10, 2006. Accordingly, the Notice of Abandonment was mailed May 12, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a timely response to the non-Final Office Action. The petition to revive however is accompanied by an extension of time request but no response to the office action. An extension of time request cannot serve as a response to the office action. Furthermore, 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 application was already abandoned as the maximum period obtainable had already lapsed, the extension of time was unnecessary.

Petitioner must submit a proper reply to the final Office action mailed on October 7, 2005, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay**.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Masoud R. Jafari
Application No. 10/293,094
Filed: November 13, 2002
Attorney Docket No.: 1834FA USA

ON PETITION

This is a decision on the renewed petition filed January 24, 2007 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 7, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the expiration of the application, this application became abandoned January 10, 2006. Accordingly, the Notice of Abandonment was mailed May 12, 2006. A petition filed May 25, 2006 was dismissed in a decision mailed July 27, 2006 because the required response was not filed with the petition.

Comes now petitioner with the response to the October 7, 2005 non-Final Office Action.

This matter is being referred to Technology Center 1618 for appropriate action on the response filed January 24, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NORRIS MCLAUGHLIN & MARCUS, P.A.
P O BOX 1018
SOMERVILLE NJ 08876

In re application of:
Constantine N. Manis
Application No. 10/293129
Filed: November 13, 2002
For: **METHOD AND SYSTEM FOR MEDIA CONTENT DATA DISTRIBUTION AND CONSUMPTION**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on June 16, 2005.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents with Customer Number (23526) in the request are withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc:

Mr. James Reeber
Arkados, Inc.
948 U.S. Highway #22 East
North Plainfield, New Jersey 07060

#7

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ALEXANDRIA, VA 22313-1450
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Paper No. 6

Scott Wofsy
Edwards & Angell, LLP
PO Box 9169
Boston, MA 02209

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MAY 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Gallant et al. :
Application No. 10/293,130 :
Filed: November 13, 2002 :
Attorney Docket No. 49366-58914 CE-157.1 :

ON PETITION

This is a decision on the petition filed May 7, 2003, to accord the above-identified application a filing date of November 13, 2002, instead of November 14, 2002.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of November 13, 2002. It should be noted that the Office considered the results of a USPS database in rendering the instant decision. A copy of the search results is attached.

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

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 13, 2002.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of results of USPS database search which indicate date of deposit of November 13, 2002

3/1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-7-06

TO SPE OF : ART UNIT 2836

10/293141

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/293141 Patent No.: 6982860

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

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

Please check claims

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

BRIAN SIRCUS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2836

Art Unit

Atty Dkt. No: 113937-010

PATENT

OIPE JC109 JUN 2 1 2004 PATENT & TRADEMARK OFFICE

DA 3727

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2004 JUN 24 PM 12:37

In Re Patent Application Of:	Brent Anderson	)
For:	SEAL FOR ZIPPERED BAG	)
Serial No.:	10/293,145	)
Filed:	November 13, 2002	)
Examiner:	Jes F. Pascua	)
Art Unit:	3727	)
Conf. No.:	6512	)

RECEIVED

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Office with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 16, 2004.

Judith L. Goldberg

Judith L. Goldberg

STATEMENT UNDER 37 CFR 1.28(c) AND ITEMIZED LIST OF ERRONEOUS FEES PAID

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JUN 2 5 2004
OFFICE OF PETITIONS

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

Sir:

Applicant hereby states that, through unintentional error and without deceptive intent, the initial filing of the above-identified application established that Applicant was entitled to Small Entity Status and accordingly, reduced fees were paid at the initial filing of this application. Applicant is a large entity and therefore obligated for payment of full fees.

Following is an itemization of the fees paid and a calculation of the fees due.

Initial filing:

For:	No. Filed	No. Extra		Small Entity Rate	Small Entity Fee		Other Than A Small Entity Rate	Other Than A Small Entity Fee
Basic Fee	[redacted]		paid	[redacted]	$ 370	should pay	[redacted]	$ 740
Total Claims	47 - 20 =	27	paid	x 9=	$ 243	should pay	x 18 =	$ 486
Indep. Claims	4 - 3 =	1	paid	x 42=	$ 42	should pay	x 84 =	$ 84
☐ First Presentation of Multiple Dependent Claim			paid	x140 =	0	should pay	x 280 =	$ 0
				Total	$655.00	should pay	Total	$1,310

06/24/2004 DALLEN 00000061 10293145

01 FC:1559 655.00 OP

06/24/2004 DALLEN 00000062 10293145

01 FC:1461 920.00 OP

Adjustment date: 07/02/2004 AKELLEY
11/15/2002 SSITHIB1 00000020 10293145
01 FC:2001 -370.00 OP
02 FC:2201 -42.00 OP
03 FC:2202 -243.00 OP

Adjustment date: 07/02/2004 AKELLEY
02/27/2003 MBERHE 00000011 10293145
Adjustment date: 07/02/2004 AKELLEY
06/24/2004 DALLEN 00000062 10293145
01 FC:1461 -920.00 OP

07/02/2004 AKELLEY 00000008 10293145
01 FC:1001 770.00 OP
02 FC:1201 86.00 OP
03 FC:1202 486.00 OP
04 FC:1051 180.00 OP

Adjustment date: 07/02/2004 AKELLEY
06/24/2004 DALLEN 00000061 10293145
01 FC:1559 -655.00 OP

Refund Ref:
07/02/2004 AKELLEY 0000137273
CHECK Refund Total: $655.00

Refund Ref:
07/02/2004 AKELLEY 0000137274
CHECK Refund Total: $1,310.00

Computation of Fees Due:

Filing Fee to be paid	$ 1,310.00
Filing Fee paid	$ 655.00
TOTAL DUE:	$ 655.00

Applicant respectfully encloses herewith a check in the amount of $655 to cover the deficit in fees. Applicant does not believe any additional fees are due in connection with this Statement.

Applicant hereby declares all statements made herein of his own knowledge are true and 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.

Respectfully submitted,

EVEREST INTELLECTUAL PROPERTY LAW GROUP

Date: June 16, 2004

BY Joseph Fuchs

Joseph A. Fuchs, Reg. No. 34,604
P.O. Box 708
Northbrook, IL 60065
Phone: (847) 272-3400

COMBINED AMENDMENT & PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) (Large Entity)	Docket No. 113937-010

In Re Application Of: **Brent Anderson**

JUN 2 1 2004
PATENT & TRADEMARK OFFICE

Serial No.	Filing Date	Examiner	Group Art Unit
10/293,145	November 13, 2002	Jes F. Pascua	3727

Invention: **SEAL FOR ZIPPERED BAG**

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OFFICE OF PETITIONS

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

This is a combined amendment and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of **March 10, 2004** (*Date*) in the above-identified application.

The requested extension is as follows (check time period desired):

☐ One month ☐ Two months ☒ Three months ☐ Four months ☐ Five months

from: **May 10, 2004** (*Date*) until: **July 10, 2004** (*Date*)

The fee for the amendment and extension of time has been calculated as shown below:

CLAIMS AS AMENDED							
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST # PREV. PAID FOR		NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	47	-	47	=	0	x $18.00	$0.00
INDEP. CLAIMS	4	-	4	=	0	x $84.00	$0.00
						FEE FOR AMENDMENT	$0.00
						FEE FOR EXTENSION OF TIME	$920.00
						TOTAL FEE FOR AMENDMENT AND EXTENSION OF TIME	**$920.00**

COMBINED AMENDMENT & PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) (Large Entity)	Docket No. 113937-010

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JUN 2 5 2004

OFFICE OF PETITIONS

The fee for the amendment and extension of time is to be paid as follows:

☒ A check in the amount of **$920.00** for the amendment and extension of time is enclosed.

☐ Please charge Deposit Account No. in the amount of **$920.00**
A duplicate copy of this sheet is enclosed.

☐ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No.
A duplicate copy of this sheet is enclosed.
- ☐ Any additional filing fees required under 37 C.F.R. 1.16.
- ☐ Any patent application processing fees under 37 CFR 1.17.

☐ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. A duplicate copy of this sheet is enclosed.

Joseph Fuchs

Signature

Dated: **June 16, 2004**

Joseph A. Fuchs, Reg. No. 34,604
EVEREST INTELLECTUAL PROPERTY LAW GROUP
P.O. Box 708
Northbrook, IL 60065
Tel: (847) 272-3400

I certify that this document and fee is being deposited on **June 16, 2004** 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.

Judith L. Goldberg

Signature of Person Mailing Correspondence

Judith L. Goldberg

Typed or Printed Name of Person Mailing Correspondence

cc:

JUN 2 1 2004
PATENT & TRADEMARK OFFICE
JC109

Atty Dkt. No: 113937-010

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application Of:	Brent Anderson	)
For:	SEAL FOR ZIPPERED BAG	)
Serial No.:	10/293,145	)
Filed:	November 13, 2002	)
Examiner:	Jes F. Pascua	)
Art Unit:	3727	)
Conf. No.:	6512	)

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Office with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 16, 2004.

Judith L. Goldberg

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AMENDMENT

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

Dear Sir:

In response to the Office Action of March 10, 2004, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 7 of this paper.

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims

Claim 1 (withdrawn): A recloseable bag, the bag having a mouth and comprising:

a closure at the mouth, the closure having a first end and a second end,

a first crushed section at the first end of the closure, the closure further including an intact portion;

a first transition area between the first crushed section and the intact portion; and

a sealing material in the first transition area.

Claim 2 (withdrawn): The recloseable bag of claim 1, wherein the closure is a zippered closure, the zippered closure including a front zipper profile and a back zipper profile.

Claim 3 (withdrawn): The recloseable bag of claim 2, including a second crushed section at the second end of the zippered closure, a second transition area between the second crushed section and the intact portion, and a sealing material in the second transition area.

Claim 4 (withdrawn): The recloseable bag of claim 1, wherein the sealing material is thermally activated.

Claim 5 (withdrawn): The recloseable bag of claim 4, wherein the first crushed section at the first end of the zippered closure is created by a heated die, the heated die heating at least a portion of the thermally activated sealing material.

Claim 6 (withdrawn): The recloseable bag of claim 4, wherein the first crushed section at the first end of the zippered closure is created by ultrasonic welding.

Claim 7 (withdrawn): The recloseable bag of claim 1, wherein the sealing material is a plastic material.

Claim 8 (withdrawn): The recloseable bag of claim 7, wherein the sealing material is polyethylene.

Claim 9 (withdrawn): The recloseable bag of claim 4, wherein the thermally activated sealing material is glue.

Claim 10 (withdrawn): The recloseable bag of claim 1, wherein the sealing material is curable with light.

Claim 11 (withdrawn): The recloseable bag of claim 10, wherein the light is ultraviolet light.

Claim 12 (withdrawn): The recloseable bag of claim 1, wherein the sealing material is chemically curable.

Claim 13 (withdrawn): The recloseable bag of claim 1, further including a slider.

Claim 14 (withdrawn): A method for making a bag, the bag having a front, a back, and a mouth, and a closure at the mouth, the closure having a first end and second end, the method comprising the steps of:

depositing a sealing material between the front and back of the bag at the first end of the closure; and

crushing the first end of the closure to define a first crushed section and an intact portion.

Claim 15 (withdrawn): The method of claim 14, wherein the closure is a zippered closure, the zippered closure having a front zipper profile and a back zipper profile.

Claim 16 (withdrawn): The method of claim 15, further including depositing a sealing material between the front zipper profile and back zipper profile at the second end of the zippered closure, and crushing the second end of the zippered closure to define a second crushed section.

Claim 17 (withdrawn): The method of claim 14, wherein the sealing material is thermally activated.

Claim 18 (withdrawn): The method of claim 17, wherein the step of crushing the first end of the zippered closure includes a heated die, the heated die heating at least a portion of the thermally activated sealing material.

Claim 19 (withdrawn): The method of claim 17, wherein the thermally activated sealing material is glue.

Claim 20 (withdrawn): The method of claim 14, wherein the sealing material is curable with light.

Claim 21 (withdrawn): The method of claim 14, wherein the sealing material is chemically curable.

Claim 22 (withdrawn): The method of claim 15, wherein the zippered closure includes a first transition area between the first crushed section and the intact portion, and the sealing material extends into the first transition area.

Claim 23 (withdrawn): The method of claim 17, wherein the first crushed section at the first end of the zippered closure is created by ultrasonic welding.

Claim 24 (withdrawn): The method of claim 14, wherein the sealing material is a plastic material.

Claim 25 (withdrawn): The method of claim 24, wherein the sealing material is polyethylene.

Claim 26 (withdrawn): The method of claim 20, wherein the light is ultraviolet light.

Claim 27 (original): A zippered closure, the zippered closure having a first end and a second end, and comprising:

a front zipper profile and a back zipper profile;

a first crushed section at the first end of the zippered closure, the zippered closure further including an intact portion;

a first transition area between the first crushed section and the intact portion; and

a sealing material in the first transition area.

Claim 28 (original): The zippered closure of claim 27, including a second crushed section at the second end of the zippered closure, a second transition area between the second crushed section and the intact portion, and a sealing material in the second transition area.

Claim 29 (original): The zippered closure of claim 27, wherein the sealing material is thermally activated.

Claim 30 (original): The zippered closure of claim 29, wherein the thermally activated sealing material is glue.

Claim 31 (original): The zippered closure of claim 27, wherein the sealing material is curable with light.

Claim 32 (original): The zippered closure of claim 27, wherein the sealing material is chemically curable.

Claim 33 (original): The zippered closure of claim 31, wherein the light is ultraviolet light.

Claim 34 (original): The zippered closure of claim 29, wherein the first crushed section at the first end of the zippered closure is created by a heated die, the heated die heating at least a portion of the thermally activated sealing material.

Claim 35 (original): The zippered closure of claim 29, wherein the first crushed section at the first end of the zippered closure is created by ultrasonic welding.

Claim 36 (original): The zippered closure of claim 27, wherein the sealing material is a plastic material.

Claim 37 (original): The zippered closure of claim 36, wherein the sealing material is polyethylene.

Claim 38 (withdrawn): A method of making a bag having a zippered closure comprising the steps of:

providing a first film having a first profile of the zippered closure attached thereto;

depositing at a location on the first profile a sealing material;

providing a second film in registration with the first film having a second profile of the zippered closure attached thereto; and

crushing the first and second profiles of the zippered closure at the deposit location.

Claim 39 (withdrawn): The method of claim 38, wherein the sealing material is thermally activated.

Claim 40 (withdrawn): The method of claim 38, wherein the step of crushing includes a heated die, the heated die heating at least a portion of the sealing material.

Claim 41 (withdrawn): The method of claim 39, wherein the thermally activated sealing material is glue.

Claim 42 (withdrawn): The method of claim 38, wherein the sealing material is curable with light.

Claim 43 (withdrawn): The method of claim 38, wherein the sealing material is chemically curable.

Claim 44 (withdrawn): The method of claim 42, wherein the light is ultraviolet light.

Claim 45 (withdrawn): The method of claim 38, wherein the step of crushing includes ultrasonic welding.

Claim 46 (withdrawn): The method of claim 38, wherein the sealing material is a plastic material.

Claim 47 (withdrawn): The method of claim 46, wherein the sealing material is polyethylene.

REMARKS

This is a response to the Office Action mailed March 10, 2004, with a shortened one month response period ending on April 10, 2004 extended three months by Petition filed herewith. This response is therefore timely filed.

1. Status of the Claims

Claims 1-47 are currently pending in this application. Claims 1-47 are subject to restriction as follows:

Invention I: Claims 1-13 drawn to a bag, classified in class 383, subclass 63;

Invention II: Claims 14-26 and 38-47, drawn to a method of forming a bag, classified in class 493, subclass unknown;

Invention III: Claims 27-37, drawn to a zippered closure, classified in class 24, subclass 399.

Applicant hereby elects Invention III, namely claims 27-37, without traverse. Claims 1-26 and 38-47 are withdrawn. Applicant reserves the right to re-add the withdrawn claims if a common generic claim is found allowable, or to file divisional applications on any canceled claims.

Respectfully submitted,

EVEREST INTELLECTUAL PROPERTY LAW GROUP

Date: June 16, 2004

BY _____

Joseph A. Fuchs, Reg. No. 34,604
P.O. Box 708
Northbrook, IL 60065
Phone: (847) 272-3400

OIPE JC109
JUN 2 1 2004
PATENT & TRADEMARK OFFICE

TRANSMITTAL LETTER (General - Patent Pending)	Docket No. 113937-010

In Re Application of: **Brent Anderson**

Serial No.	Filing Date	Examiner	Group Art Unit
10/293,145	November 13, 2002	Jes F. Pascua	3727

Title: **SEAL FOR ZIPPERED BAG**

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

Transmitted herewith is:

Combined Amendment and Petition for Extension of Time (2 pgs.); Amendment (7 pgs.); Check for $920; Statement Under 37 CFR 1.28(c) and Itemized List of Erroneous Fees Paid (2 pgs.); Check for $655; Return receipt postcard.

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of is attached.
- ☐ The Commissioner is hereby authorized to charge and credit Deposit Account No. as described below. A duplicate copy of this sheet is enclosed.
  - ☐ Charge the amount of
  - ☐ Credit any overpayment.
  - ☐ Charge any additional fee required.

Joseph Fuchs
Signature

Dated: **June 16, 2004**

Joseph A. Fuchs, Reg. No. 34,604
Everest Intellectual Property Law Group
P.O. Box 708
Northbrook, IL 60065
Tel: (847) 272-3400

I certify that this document and fee is being deposited on **June 16, 2004** with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Judith L. Goldberg
Signature of Person Mailing Correspondence

Judith L. Goldberg
Typed or Printed Name of Person Mailing Correspondence

cc:

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JOSEPH A. FUCHS
EVEREST INTELLECTUAL PROPERTY LAW GROUP
P.O. BOX 708
NORTHBROOK, IL 60065

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JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Brent Anderson :
Application No. 10/293,145 :
Filed: November 13, 2002 :
Attorney Docket No. 113937-000010

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 3727.

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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TUCKER, ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

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OFFICE OF PETITIONS

In re Application of

Carter, et al. :

Application No. 10/293,173

: DECISION ON PETITION

Filed: November 13, 2002

:

Attorney Docket No. 76380/25135

This is a decision on the petition under 37 CFR 1.137(b), filed, September 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 27, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Appeal was filed on August 7, 2006, with a request for an extension of time within the third month, however; a Notice of Appeal is not a proper response to a non-final Office action. No further response was filed within the allowable period. The application became abandoned on August 28, 2006.

The amendment filed September 8, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2174 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 350
SANDY UT 84070

In re Application of
Croft, et al.
Application No. 10/293,203
Filed: November 12, 2002
Attorney Docket No. 00025-20028.NP

: ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned June 30, 2007 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed December 29, 2006. The final Office action set a three month shortened statutory period of time for reply. A three month extension of time was obtained, however, the reply submitted June 29, 2007 failed to place the application in condition for allowance, as indicated in the Advisory Action mailed July 25, 2007. Notice of Abandonment was mailed August 24, 2007

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has submitted a reply in the form of a Request for Continued Examination (RCE) and required fee, and the submission required by 37 CFR 1.114, the required petition fee, and 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 Technology Center AU2615 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.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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KATTEN MUCHIN ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of	:	
Ramon Merce-Vidal et al	:	
Application No. 10/293,206	:	ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No. 100700-00872 (HERR 20.091)	:	

This is a decision on the petition, filed February 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

Telephone inquiries should be directed to the undersigned at (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
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

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UNITED STATES 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.
10/293,207	11/12/2002	Johan Nicolai	BR6.P32	5820

21792 7590 07/22/2004

STRATTON BALLEW
213 S 12TH AVE
YAKIMA, WA 98902

EXAMINER
MCCORMICK EWOLDT, SUSAN BETH

ART UNIT	PAPER NUMBER
1654	

DATE MAILED: 07/22/2004

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

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STRATTON BALLEW
213 S 12TH AVE
YAKIMA, WA 98902

In re Application of:	:
Johan Nicolai	:
Serial No.: 10/293,207	: SUSPENSION OF ACTION
Filed: November 12, 2002	:
Attorney Docket No.: BR6.P32	:

This letter is in response to the petition under 37 CFR 1.103(a), received April 2, 2004, seeking suspension of action in this application for a period of six months.

A review of the file history shows that applicants responded to the last Office action on April 2, 2004, and that the response is a complete response insofar as is possible.

Applicants seek suspension of action due to requirement of the examiner for a fuller description of botanical information on the plant characteristics which are unavailable due to dormancy.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants' petition is **GRANTED**. Action on this application is suspended for six months from the date of mailing of this decision. At the end of the period of suspension, or earlier if desired, applicant is requested to contact the examiner in writing or by facsimile transmission requesting resumption of prosecution in this application.

Should there be any questions with respect to this decision, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number 703-872-9306.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

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OFFICE OF PETITIONS

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

In re Application of
Johan Nicolai : DECISION ON APPLICATION
Application No. 10/293,207 : FOR PATENT TERM ADJUSTMENT
Filed: November 12, 2002 :
Attorney Docket No. 047265-0103 :

This decision is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed April 27, 2005, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial 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 was **zero (0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 24, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one hundred fifty-nine (159) days.

The Office initially determined a patent term adjustment of one hundred fifty-nine (159) days based on an adjustment for PTO delay of two hundred nineteen (219) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by applicant's delays of thirty (30) and thirty (30) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(b). The adjustments have been reviewed and found to be correct.

Applicant filed a petition for suspension of action under 37 C.F.R. § 1.103 on April 2, 2004. The petition was granted in a decision mailed on July 22, 2004. The decision stated that prosecution would be suspended for a period of six (6) months from the date of mailing of the decision, or until January 22, 2005.

Accordingly, pursuant to 37 C.F.R. § 1.704(c)(1), applicant should have incurred additional delay of two hundred ninety-six (296) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** days (219 days of PTO delay, reduced by 356 (296+30+30) days of Applicant delay).

No petition fee was required. The Office thanks Applicant for his good faith and candor in bringing this matter to the attention of the Office.

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

Telephone inquiries specific to this letter 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 adjusted PAIR calculation

Day : Thursday
Date: 9/14/2006

PALM INTRANET

Time: 14:21:34

PTA Calculations for Application: 10/293207			
Application Filing Date:	11/12/2002	PTO Delay (PTO):	219
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	60
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-296		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
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46	03/24/2005	MAIL NOTICE OF ALLOWANCE			
45	03/23/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
44	03/21/2005	ISSUE REVISION COMPLETED			
43	03/21/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	03/21/2005	CORRESPONDENCE ADDRESS CHANGE			
41	03/21/2005	NOTICE OF ALLOWABILITY			
40	03/09/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT	219		22
39	03/07/2005	MISCELLANEOUS ACTION WITH SSP			
38	02/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	03/17/2005	DATE FORWARDED TO EXAMINER			
36	02/28/2005	SUPPLEMENTAL RESPONSE			
33	02/08/2005	DATE FORWARDED TO EXAMINER			
32	02/08/2005	TO CLOSE THE A/R RECORD AND RESET THE STATUS FOR EXPIRED SUSPENSIONS.			
31	01/21/2005	WORKFLOW INCOMING AMENDMENT IFW			
30	07/22/2004	MAIL LETTER SUSPENDING PROSECUTION AT APPLICANT'S REQUEST			
29	07/22/2004	PETITION DECISION - GRANTED			
28	07/21/2004	LETTER OF SUSPENSION - APPLICANT INITIATED			
27	07/12/2004	PETITION ENTERED			
26	06/30/2004	CASE DOCKETED TO EXAMINER IN GAU			
25	06/30/2004	CASE DOCKETED TO EXAMINER IN GAU			

24	04/02/2004	LETTER REQUESTING SUSPENSION OF PROSECUTION			
23	04/27/2004	DATE FORWARDED TO EXAMINER			
22	04/02/2004	RESPONSE AFTER NON-FINAL ACTION		30	18
21	04/02/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	04/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	03/30/2004	CORRESPONDENCE ADDRESS CHANGE			
18	12/03/2003	MAIL NON-FINAL REJECTION			
17	12/01/2003	NON-FINAL REJECTION			
16	10/02/2003	NEW OR ADDITIONAL DRAWING FILED			
15	10/02/2003	SUBSTITUTE SPECIFICATION FILED			
14	10/31/2003	DATE FORWARDED TO EXAMINER			
13	10/02/2003	RESPONSE AFTER NON-FINAL ACTION		30	11
12	10/02/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
11	06/02/2003	MAIL NON-FINAL REJECTION			
10	06/02/2003	NON-FINAL REJECTION			
9	04/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	03/18/2003	APPLICATION DISPATCHED FROM OIPE			
7	03/18/2003	APPLICATION IS NOW COMPLETE			
6	02/21/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
5	02/21/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	12/12/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	11/18/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/12/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MAY 12 2004

STRATTON BALLEW
213 S 12TH AVE
YAKIMA WA 98902

In re Application of	:
Johan Nicolai	:
Serial No.: 10/293,208	: SUSPENSION OF ACTION
Filed: November 12, 2002	:
Attorney Docket No.: JN1.P01	:

This letter is in response to the petition under 37 CFR 1.103(a), received April 2, 2004, seeking suspension of action in this application for a period of six months.

A review of the file history shows that applicants responded to the last Office action on April 2, 2004, and that the response is a complete response insofar as is possible.

Applicants seek suspension of action due to requirement of the examiner for a fuller description of botanical information on the plant characteristics and reproductive organs which are currently unavailable.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants' petition is **GRANTED**. Action on this application is suspended for six months from the date of mailing of this decision. At the end of the period of suspension, or earlier if desired, applicant is requested to contact the examiner in writing or by facsimile transmission requesting resumption of prosecution in this application.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number 703-872-9306.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 15 2006

OFFICE OF PETITIONS

Foley & Lardner
Suite 500
3000 K Street NW
Washington, DC 20007

In re Application of
Nicolai
Application No. 10/293,208
Filed: November 12, 2002

: LETTER REGARDING PTA

This decision is in response to Applicants' "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT)" filed on JANUARY 3, 2005 asserting that applicants believe that they received too much PTA at the time of the mailing of the notice of allowance.

The Office thanks applicants for their good faith and candor in bring this letter to the attention of the Office.

Applicants letter is **GRANTED.** The Office will adjust the amount of APPLICANT DELAY from 59 days to 254 days and the Office delay from 120 days to zero (0) days. Overall, at the time of the mailing of the notice of allowance there was zero (0) days of Office delay and 254 days (applicant delay). Overall, the determination of PTA at time of mailing of notice of allowance is zero (0).[1]

The Office agrees that too much PTA was awarded at the time of the mailing of the notice of allowance. The determinations of one hundred and twenty (120) days of Office delay is not accurate. Because applicant requested suspension of the application on 5/12/2004, the Office was not on a time limit to respond to the 4/2/2004 reply within four months under 37 CFR 1.702(a)(2). In addition, the applicant initiated suspension is considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(a)(1).[2] Applicant delayed for a period of 195 days beginning on May 12, 2004 and ending on November 22, 2004.

---

[1]The Office acknowledges that if applicant delay is greater than Office delay then there will be zero adjustment to the 20-year term. A "negative balance" by applicant would not cause the Office to reduce the 20-year term.

[2]The reduction begins on the date of the request for suspension was filed and ends on the date of the termination of the suspension. See 37 CFR 1.704(c))(1).

After the mailing of the Office action, the file will be forwarded to the Office of Patent Publications for a prompt issuance of the application.

Any additional delays in failing to issue the application within four months of the payment of the issue fee and other requirements being satisfied under 37 CFR 1.702(a)(4) will be added at the time of the issuance of the patent and notice will be mailed to applicants in the Issue Notification letter that is mailed approximately three weeks prior to issuance.

Because applicants have submitted this letter in response to good faith and candor, the Office will not assess any fees concerning the amount of Patent Term Adjustment.

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A Fries

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

cc: Adjusted PAIR calculation

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Alexandria, VA 22313-1450
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Paper No. 072804

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

AUG 2 4 2004

In re Application of:	:	
LAWRENCE L. AMES	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/293,209	:	
Filed: November 12, 2003	:	
Attorney Docket No.: **040092-026200US**	:	

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 was filed on April 6, 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 Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MARK J. ITRI
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE., SUITE 400
IRVINE, CA 92612-0187

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/22/08

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/293213 Patent No: 7075902 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: _____

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2416
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

DANIEL E. OVANEZIAN
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BLVD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of	:	
SCHWEIKARD, et al.	:	
Application No. 10/293,216	:	DECISION ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. 1010497-991140	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 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, August 1, 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 November 1, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $1500; and (3) a proper statement that the entire delay was unintentional.

This application is being referred to Technology Center Art Unit 3737.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KENNETH C. BROOKS
LAW OFFICE OF KENNETH C. BROOKS
P.O. BOX 10417
AUSTIN TX 78766

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JUN 2 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Byung J. Choi et al :
Application No. 10/293,224 :
Filed: November 13, 2002 :
Attorney Docket No. P50/MII-10-10 :

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).

P titioner is advised that the issue fee paid on June 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new N tice 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 2851 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).

DATE 8/30/07 APPLICATION NUMBER 10/293 224

DOC CODE Ret. dec, corr in DOC DATE 9/19/07

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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OFFICE OF PETITIONS

MOLECULAR IMPRINTS
PO BOX 81536
AUSTIN, TX 78708-1536

In re Patent No. 7,019,819	: DECISION UNDER 37 CFR
Issued: March 28, 2006	: 1.705(d)
Application No. 10/293,224	:
Filed: November 13, 2002	:
Atty. Dkt. No.: P50/MII-10-10	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed May 31, 2006. This matter is being treated under 37 CFR 1.705(d) as an application for patent term adjustment. Applicants are requesting that the patent term adjustment be adjusted from a determination of 237 days to an adjustment of 354 days.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED-IN-PART and Dismissed in Part.**

The correct amount of PTA days at the time of the mailing of the issuance of the patent is 345 days. The Office will **sua sponte** issue a certificate of correction reflecting this new determination. In addition, the Office will adjust the PTA determination reflected in PAIR to be consistent with this decision.

As for the request for no assessment of fee, the request is **dismissed.**

The Office will give patentees one month to reply to this decision if applicants disagree with the conclusion. No extensions of time will be granted under 37 CFR 1.136.

The above-identified application matured into U.S. Patent No. 7,019,819 on March 28, 2006. The instant request for reconsideration was timely filed May 31, 2006 (certificate of mailing date of May 26, 2006) in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 237 days. Patentees argue that the patent is entitled to an adjustment of 354 days (409 days attributable to the PTO and 55 days attributable to applicants).

As acknowledged by patentees, at the time of issuance, an adjustment of 409 days was attributed to the Office in accordance with 37 CFR 1.702(a)(4) and 1.703(a)(6). The adjustment of 409 was properly reduced 172 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

Applicants must be alleging that the 152-day reduction is improper since applicants allege that the amount of delay by applicants in failing to engage in reasonable efforts to conclude prosecution of the

application is only 55 days. Upon review of the 152-day reduction, it is evident that the Office assessed too many days of delay. Applicants completed their response to the Notice to File Missing Parts of the Nonprovisional on May 14, 2003, a thirty-five day delay pursuant to 37 CFR 1.704(b).[1]

It is unclear what reduction patentees refer to as having occurred under "37 C.F.R. §1.704(9)(i)." However, there was no reduction of 42 days attributable to patentees during the course of prosecution of the application. However, the submission of an RCE after the payment of the issue fee amounts to a reduction under 37 CFR 1.704(c)(10). The delay amounted to a nine-day reduction.[2]

As to patentees' argument that the reduction that incurred as a result of the submission of a Rule 312 amendment on August 11, 2004 should have been 13 days, patentees are advised that the reduction under 37 CFR 1.704(c)(10) commenced August 11, 2004, the date of submission of the amendment, and ended August 24, 2004, the date a response to the amendment was mailed, or, 14 days.

Accordingly, at the time of issuance, the patent was entitled to an overall adjustment of 345 (409-35-9-6-14=345) days.

The required application fee of $200.00 has been charged to patentee's deposit account as authorized. As to patentees request for waiver of the required application fee, patentees are advised that the requisite authority to establish regulations for patent term adjustment are prescribed at 35 USC 154(b)(1)(C)(3)(A) whereby it sets forth that "[t]he Director shall prescribe regulations establishing procedures for the application for and determination of patent term adjustments..." The procedures require the submission of an application fee, currently $200.00. *See*, 37 CFR 1.705(b)(1). Therefore, request for waiver of the required fee is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO MONTHS** of the mail date of the instant decision indicated above. Extensions under 37 CFR 1.136 will not be permitted.

There is no indication in the official application file wrapper that practitioner was ever empowered to represent the instant patent. If practitioner desires to receive future correspondence regarding this patent, the appropriate documentation must be submitted to the Office. **Practitioner is advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.**

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

---

[1] The delay began on April 10, 2003, the day after the three-month response period ended for purposes of PTA and ended on May 14, 2003 the date that applicants filed a response to the notice.

[2] The delay began on June 15, 2004 and ended on June 23, 2004.

Kery A Fries

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

CC: KELLY K. KORDZIK
P.O. BOX 50784
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,019,819 B2

DATED : March 28, 2006

INVENTOR(S) : Choi 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 (237) days

Delete the phrase "by 237 days" and insert – by 345 days--

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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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OCT 13 2004

OFFICE OF PETITIONS

In re Application of	:	
JOSEPH WING ON TAM	:	
Application No. 10/293,248	:	DECISION GRANTING PETITION
Filed: November 9, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TAM-P002R	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of February 5, 2003 is accepted as having been unintentionally delayed.

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

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

Karen Creasy

Karen Creasy
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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

David B. Newman, Jr.
Centennial Square
P.O. Box 2728
LaPlata, MD 20646-2728

MAILED

MAR 0 1 2004

Technology Center 2100

In re Application of:	)	
Donald L. Schilling	)	
Application No. 10/293,249	)	**DECISION ON REQUEST FOR**
Filed: November 13, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: PIRACY REDUCTION METHOD FOR DIGITAL CONTENT	)	

This is a decision on the Request To Withdraw from Representation filed February 11, 2004.

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

The request filed February 11, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

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

cc: John Gabrysiak
ORLOVSKY, MOODY, SCHAAFF & GABRYSIAK
187 Highway 36
West Long Branch, NJ 07764

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005

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MAR 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Ricardo Roman Cordero Otero et al :
Application No. 10/293,255 : NOTICE
Filed: February 10, 2004 :
Attorney Docket No. 03940.0058

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 1645.

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of
Stephanie Betge-Brezetz et al. :
Application No. 10/293,306 : ON PETITION
Filed: November 14, 2002 :
Attorney Docket No: Q72554 :

This is a decision on the petition to withdraw the holding of abandonment, filed August 29, 2006 and January 26, 2007, 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 September 14, 2006, for failure to file a timely response to the non-Final Office Action mailed June 13, 2006, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed December 22, 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 June 13, 2006 would have been filed, had it been received. To further show that the Office Action mailed June 13, 2006 was not received, petitioner explains that after searching the file jacket 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 June 13, 2006, 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 2145 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

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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SEP 18 2006
OFFICE OF PETITIONS

In re Application of Okamura et al. :
Application No. 10/293,308 : Decision on Petition
Filing Date: November 14, 2002 :
Attorney Docket No. Q72902 :

This is a decision on the petition under 37 CFR 1.181, filed June 14, 2006, to withdraw the holding of abandonment.

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 29, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on October 30, 2005. A Notice of Abandonment was mailed on May 17, 2006.

Petitioner asserts a reply to the non-final Office action was timely filed. In support of the petition, petitioner has submitted a date-stamped postcard receipt, indicating that an amendment was received on October 28, 2006. A copy of the amendment accompanies the petition.

The original reply filed October 28, 2006, was not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded a reply was timely filed on October 28, 2006, in the Patent and Trademark Office but not matched with the application file.

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

Technology Center Art Unit 2133 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROWDY AND NEIMARK, P.L.L.C.
SUITE 300
624 NINTH STREET, N.W.
WASHINGTON DC 20001-5303

In re Application of :
Harry Guttman et al. :
Serial No.: 10/293,362 :
Filed: November 14, 2002 : PETITION TO MAKE SPECIAL
Attorney Docket No.: GUTTMAN 4A :
:

This is in response to applicants' petition filed November 14, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on inventions which materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e. air, water, and soil. No fee is required for this petition. The delay in acting upon this petition is regretted.

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

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

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

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

#5

SHERRY M. KNOWLES
KING & SPALDING
191 PEACHTREE STREET
ATLANTA GA 30303-1763

In re Application of	:
Bentley Cheatham et al	:
Serial No.: 10/293,398	: STATUS LETTER
Filed: November 12, 2002	:
Attorney Docket No.: 08140/ART1060	:

This is in response to applicant's attorney's request, filed July 21, 2003, to withdraw from representation in the above identified application.

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

Applicant's attorney has proivided 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 (703) 308-3824 or by facsimile transmission at (703) 305-7230.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

King & Spalding LLP
191 Peachtree Street, N. E.
Atlanta, GA 30303-1763

COPY MAILED
JUN 22 2004
OFFICE OF PETITIONS

In re Application of :
Mitchell Glass, et al. :
Application No. 10/293,399 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. 04676.105069 (ATH119) :

This is a decision on the petition under 37 CFR 1.137(b), filed April 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

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

The application file is being forwarded to Technology Center 1600.

Marianne E. Morgan
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

SEP 14 2004

STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
SALT LAKE CITY UT 84111

In re Application of	:
Linda B. Couto et al	:
Serial No.: 10/293,400	: PETITION TO MAKE SPECIAL
Filed: November 12, 2002	:
Attorney Docket No.: AVIGEN.3CDV	:

This is in response to the petition filed November 12, 2002, 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, but was due in part to delays in initial processing.

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 703-872-9306.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT DOCKETING ADMINISTRATION
RAYTHEON SYSTEMS COMPANY
PO BOX 902 (E1/E150)
BLDG E1 M S E150
EL SEGUNDO, CA 90245-0902

COPY MAILED

APR 20 2005

OFFICE OF PETITIONS

In re Application of: :
Theodore B. Bailey :
Application No. 10/293,422 : DECISION ON
Filed: November 12, 2002 : PETITION
Title of Invention: :
THREE AXES LINE-OF-SIGHT TRANSDUCER:

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed November 17, 2004, 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 reply in a timely manner to the non-final Office action, mailed February 24, 2004. The Notice set a shortened statutory period for reply of three (3) months 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 May 25, 2004. A Notice of Abandonment was mailed November 2, 2004.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

Having found that the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted**.

This application is being returned to Technology Center 3662 for processing of the Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/26/07

Paper No.: _____

TO SPE OF : ART UNIT 2822 Zandra Smith (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/293487 Patent No.: 7238557

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Zandra Smith
SPE

2822
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Patent of :
Suzuki :
Patent No. 6,789,529 :
Issue Date: September 14, 2004 :
Application No. 10/293,502 :
Filing Date: November 14, 2002 :
Attorney Docket No. 114029 :

Decision on Petition

This is a decision on the petition under 37 CFR § 1.183, filed February 15, 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 to accept the correction of the assignee data.

The request under 37 CFR 3.81 is **dismissed**.

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.

The instant petition is dismissed because the completed PTOL-1050 previously submitted on January 6, 2005 cannot be located in the application file. Please submit another copy of the

January 6, 2005 PTOL-1050.

Regarding finances, because petitioner filed the petition under 37 CFR 1.183, a $400.00 petition fee was charged to petitioner's deposit account. The petition is being treated as a request under 37 CFR 3.81(b). Therefore, only a $130.00 fee is due. The balance, or $270.00, will be credited to petitioner's deposit account.

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

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

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

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

The file is being forwarded to Files Repository.

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

E. Shirene Willis
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

MAY 24 2007

In re Patent No. CHAPUIS, ALAIN Issue Date: September 27, 2005 Appl No.: 10/293,531 Filed: November 12, 2002 For: Karl Easthom, AU2838	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed February 5, 2007 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.

Karl D. Easthom
Supervisory Patent Examiner
Art Unit 2838
Technology Center 2800

BRIAN M BERLINER, ESQ
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: May 22, 2007
TO: Certificates of Correction Branch
FROM: Karl D. Easthom
SPE, Art Unit 2838
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,949,916 as specified on the attached Certificate.

Karl D. Easthom, SPE
Art Unit 2838

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,949,916
Patented: September 27, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Alain Chapuis
Mikhail Guz

Karl D. Easthom
Supervisory Patent Examiner
Art Unit 2838

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 20 2004

DCM

In re Application of George H. Henderson Serial Number: 10/293,581 Filed: November 12, 2002 For: ORGANIC POTTING SOIL AND SOIL CONDITIONER	:	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed May 14, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

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

Derek H. Maughan
DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
802 WEST BANNOCK STREET, SUITE 405
BOISE ID 83701

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

EPSON RESEARCH AND DEVELOPMENT INC
INTELLECTUAL PROPERTY DEPT
2580 ORCHARD PARKWAY, SUITE 225
SAN JOSE, CA 95131

Mail Date: 04/20/2010

Applicant	: Kunio Omura	: DECISION ON REQUEST FOR
Patent Number	: 7584148	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/293,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1989** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-06

PETENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P.O.BOX 450A
SANTA CLARA CA 95052

COPY MAILED

JUN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Lymberopoulos et al.	:	DECISION ON PETITION
Application No. 10/293,595	:	
Filed: 12 November, 2002	:	
Atty Docket No. 049959-0232	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 27 October, 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.

---

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

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

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

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

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

This application became abandoned on 7 March, 2005, for failure to file a timely reply to the final Office action mailed on 6 December, 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 4 August, 2005.

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 27 October, 2005, does not place the case in *prima facie* condition for allowance.

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

UNITED STATES 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-06

PETENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P.O.BOX 450A
SANTA CLARA CA 95052

COPY MAILED
OCT 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Lymberopoulos et al.	:	DECISION ON PETITION
Application No. 10/293,595	:	
Filed: 12 November, 2002	:	
Atty Docket No. 049959-0232	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 7 July, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 7 March, 2005, for failure to file a timely reply to the final Office action mailed on 6 December, 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 4 August, 2005. The petition filed on 27 October, 2005, was dismissed on 9 June, 2006.

---

[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 in response to the final Office action as the required reply.

The duplicate petition fee submitted with the present renewed petition will be credited to counsel's deposit account.

The application will be referred to Technology Center Art Unit 2814 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Timothy M. McCarthy
Trexler, Bushnell, Giangiorgi,
Blackstone & Marr
36th Fl.
105 W. Adams St.
Chicago, IL 60603

COPY MAILED

NOV 06 2006

OFFICE OF PETITIONS

In re Application of

Gary William Ferguson

Application No. 10/293,609

Filed: November 12, 2002

Attorney Docket No. 2022/40618 CASEPA5
TMM

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), September 13, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability (the "Notice") mailed February 24, 2006. 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 May 25, 2006. A Notice of Abandonment was mailed on September 5, 2006.

Corrected drawings were received on September 13, 2006.

The application is 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

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

Alberto Q. Amatong, Jr.
FULBRIGHT & JAWORSKI L.L.P.
Suite 5100
1301 McKinney
Houston TX 77010-3095

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MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of
Gallagher
Application No. 10/293,619
Filed: November 13, 2002
Attorney Docket No. HO-P01752US1

DECISION GRANTING PETITION

This is a decision on the petition filed February 25, 2003, to accord the above-identified application a filing date of November 13, 2002.

On November 13, 2002, the application was deposited.

On January 6, 2003, the Office of Initial Patent Examination mailed a Notice stating that the specification, drawings, and declaration were missing and that a filing date would be accorded upon receipt of the specification and drawings.

In response, the present petition alleges that the specification and drawings were inadvertently omitted. However, the Utility Patent Application Transmittal sheet and the first page of the specification incorporated by reference the entire disclosure of parent application no. 09/306,769.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the specification and drawings were present in the Office on November 13, 2002, albeit in the file of another application, i.e., application No. 09/306,769. Therefore, on petition, the application may be accorded the requested filing date of November 13, 2002.

In view of the above, the petition is **granted**. The copy of the specification, drawings and claims submitted with the petition will be used for examination purposes.[1]

The petition fee of $130 will not be refunded since the petition was required to accord the application the requested filing date.

---

[1] The Office assumes that the specification, drawings, and claims are a true and exact copy of the specification, drawings, and claims submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant specification and drawings to the disclosure of the parent application in order to verify that the specification and drawings are, in fact, parts of the disclosure of the prior application.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **November 13, 2002**, using the application papers filed on November 13, 2002 and the copy of the specification, drawings, and claims filed on February 25, 2003.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 16 2009

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

In re Application of	:	
Robert J. Burnett	:	PETITION
Application No.: 10/293,621	:	TO WITHDRAW
Filed: November 13, 2002	:	NOTICE OF NON-COMPLIANT
Attorney Docket No.: P1891US00	:	AMENDMENT
For: **RETAIL DISTRIBUTIVE COMPUTING**	:	

This is a decision on the petition filed on October 20, 2008. The petition requests the withdrawal of the Examiner's Notice of Non-Compliance. The petition is treated as being filed under 37 C.F.R. 1.181 to withdraw the notice of non-compliant.

The petition is **GRANTED**.

A review of the records shows that the examiner issued a Notice of Non-Compliant Amendment dated July 10, 2008 objecting to the status labeling of claims 33-37 in the Supplemental Amendment of June 17, 2008. The Supplemental Amendment followed an Amendment filed by the Applicant on June 11, 2008. The Amendment of June 11, 2008 added new claims 35-37, labeling them as "New" (claims 32-34 were added previously). The Supplemental Amendment of June 17, 2008 labeled claims 35-37 as "Previously Pending" since these claims had been added by the earlier June 11, 2008 Amendment. The Supplemental Amendment of June 17, 2008 also added new claims 38-39, labeling them as "New".

A further review of the records show that the amendments filed by the applicant on June 11, 2008 and subsequent amendments submitted on June 17, 2008 were had correctly indicate the status of the claims under 37 CFR §1.121.

Therefore, applicant's arguments as to the matter of this petition have been considered. The Notice of Non-Compliant Amendment mailed on July 20, 2008 was not proper and hereby withdrawn.

The application will be forwarded to the Supervisory Legal Instruments Examiner for entry of the 6/11/2008 and 6/17/2008 amendments and then to the examiner for consideration of the amendments and mailing of anew office action.

Questions concerning this decision should be referred to SPE Kambiz Abdi at (571) 272-6702.

Summary: Petition is **GRANTED**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

MB RBS

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
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OFFICE OF PETITIONS

In re Application of Turner et al. Application No. 60/159,005 Filed: October 12, 1999 Attorney Docket No. 7705.6001-00	:	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed July 7, 2003, requesting that the above-identified application be accorded a filing date of October 12, 1999, rather than the presently accorded filing date of October 11, 1999.

Petitioner explains that the application papers were deposited with the USPS Express Mail Service on October 12, 1999, and request that the application be accorded that filing date. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL133798943US. Although the "date-in" indicated on the Express Mail label is October 11, 1999, the Express Mail label contains a United States Postal Service (USPS) stamp of October 12, 1999. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to October 12, 1999.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

RECEIVED

JUL 1 6 2003

FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER, L.L.P.

7/16/03

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SUITE 1600
CHICAGO, IL 60603-3406

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OFFICE OF PETITIONS

In re Application of	:	
Howard, Paul	:	
Application No. 10/293,635	:	ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No. 78179	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 30, 2004, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3282.

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

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: Masahiro Ishii	: DECISION ON REQUEST FOR
Patent Number	: 7631339	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/293,650	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2073** 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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ANDRE L. MARAIS
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P.O. BOX 2938
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OFFICE OF PETITIONS

In re Application of	:	
Joseph F. Khouri, et al.	:	
Application No. 10/293,666	:	DECISION ON REQUEST
Filed: November 12, 2002	:	TO WITHDRAW
Attorney Docket No. 2046.003US3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed March 24, 2006.

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

The request was signed by Andre L. Marais on behalf of himself and all the other attorneys/agents of record associated with Customer No. 21186. However, a review of the file record indicates that the assignee of the patent application revoked all previous powers of attorney on April 17, 2006. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

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

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: WD

cc: WELSH & KATZ, LTD
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22ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Patent No. 7,426,717
Issued: September 16, 2008
Application No. 10/293,687
Filed: November 12, 2002
Attorney Docket No.: 07844-0730001

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed November 14, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred twenty-three (523) days to nine hundred fifty-nine (959) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 16, 2008, the above-identified application matured into US Patent No. 7,426,717 with a patent term adjustment of 523 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 959 days, which includes 436 days of patent term adjustment due to exceeding three year pendency and 660 days due to USPTO delay in prosecution."

The 436-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 12, 2002, and the RCE being filed on January 22, 2007, three years and 436 days later. Patentees assert that in addition to this 436-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 660 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 37 CFR 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, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 137 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (436 days) and the period of Examination Delay (660 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1096 days, which is the sum of the period of Three Year Delay (436 days) and the period of Examination Delay (660 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 959 days (436 + 660 reduced by 0 overlap – 137(applicant delay)).

The Office agrees that as of the filing of the RCE on January 22, 2007, the application was pending three years and 436 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 a period of adjustment of 660 days is correct. At issue is whether patentees should accrue 436 days of patent term adjustment for the Office taking in excess of three years to issue the patent under 37 CFR 1.702(b), as well as 660 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 436 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June

21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt

Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b) (I) (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 until the filing of the RCE, November 12, 2002 to January 22, 2007. During that time, the issuance of the patent was delayed by 660 days, not 660 + 436 days. The Office took 14 months and 660 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 660 days of Office delay and the 137 days of applicant delay and the time allowed within the timeframes for processing and examination, at the time of filing of the RCE, the application was pending three years and 436 days until the filing of the RCE. The Office did not delay 660 days and then an additional 436 days. Accordingly, 660 days of patent term adjustment (not 660 and 436 days) was properly entered since the period of delay of 436 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 660 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 660 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 436 days over three years.

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

Accordingly, at issuance, the Office properly entered no additional days of patent term pursuant to 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

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

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OCT 1 4 2004

OFFICE OF PETITIONS

In re Application of
Takeshi Takami
Application No. 10/293,701
Filed: November 14, 2002
Attorney Docket No. 114048

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2852 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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OFFICE OF PETITIONS

In re Application of :
Georges :
Application No. 10/293,737 :
Filing Date: 12 November, 2002 :
Attorney Docket No.: DBT-004

DECISION

This is a decision on the petition filed on 18 April, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(It is noted, however, that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.181, and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Drawings requirement mailed on 30 September, 2005 (some time after that of the Notice of Allowance/Notice of Allowability), with reply due under a non-extendable deadline on or before 30 November 2005;

- the instant application went abandoned by operation of law after midnight 30 November, 2005;

- the Office mailed the Notice of Abandonment on 30 January, 2006;

- on 18 April, 2006, more than two months after the mailing of the Notice of Abandonment, Petitioner filed the instant petition and alleged the non-receipt of the 30 September, 2005, Drawings requirement, alleged a review of the file jacket and no evidence of the presence and/or receipt of the 30 September, 2005, Drawings requirement.

However, while Petitioner alleges the monitoring of the record online in (private) PAIR, Petitioner does not allege non-receipt of the Notice of Abandonment and in fact indicates discovery of the document in the file "during file maintenance."

Petitioner has failed to satisfy the prompt filing requirement as to the instant petition.

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

---

[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.

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]))

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.[7]

Further, the commentary at MPEP §711.03(c) provides:

* * *

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[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.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat.

1988). (Emphasis supplied.)

* * *

Petitioner appears not to have satisfied the timeliness requirements as to the filing of the instant petition.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**, and as of this writing the 30 January, 2006, Notice of Abandonment is maintained.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unintentional delay under 37 C.F.R. §1.137(b).

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

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, 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:[9]

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[9] 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 .)

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

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

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

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JJGJR.: 07-06

Paper No:__

ALAN R. LOUDERMILK
LOUDERMILK & ASSOCIATES
P.O. BOX 3607
LOS ALTOS CA 94024-0607

COPY MAILED
JUL 17 2006
OFFICE OF PETITIONS

In re Application of Georges Application No. 10/293,737 Filing Date: 12 November, 2002 Attorney Docket No.: DBT-004	: : : :	DECISION

This is a decision on the petition filed on 19 June, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181; alternatively revival of the application under 37 C.F.R. §1.137(a) or (b) as having been abandoned due to unavoidable or unintentional delay, respectively.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; however, the petition under 37 C.F.R. §1.137(a) is **GRANTED**, and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Drawings requirement mailed on 30 September, 2005 (some time after that of the Notice of Allowance/Notice of Allowability), with reply due under a non-extendable deadline on or before 30 November 2005;

- the instant application went abandoned by operation of law after midnight 30 November, 2005;
- the Office mailed the Notice of Abandonment on 30 January, 2006;
- on 18 April, 2006, more than two months after the mailing of the Notice of Abandonment, Petitioner filed the original petition with drawings and alleged the non-receipt of the 30 September, 2005, Drawings requirement, alleged a review of the file jacket and no evidence of the presence and/or receipt of the 30 September, 2005, Drawings requirement, however, while Petitioner alleged the monitoring of the record online in (private) PAIR, Petitioner did not allege non-receipt of the Notice of Abandonment and in fact indicates discovery of the document in the file "during file maintenance" and Petitioner has failed to satisfy the prompt filing requirement as to the original petition, and so the petition was dismissed on 30 May, 2006;
- with the instant petition, Petitioner was unable to satisfy the burdens under 37 C.F.R. §1.181, but does satisfy the showing under 37 C.F.R. §1.137(a)—which, in turn, obviates consideration 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]

---

[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.

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]))

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.[7]

Further, the commentary at MPEP §711.03(c) provides:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the

---

[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.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Petitioner appears not to have satisfied the timeliness requirements as to the filing of the instant petition.

Allegations as to
Unavoidable Delay

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

Petitioner appears to have satisfied the regulatory requirements.

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.

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.

The matter is moot.

CONCLUSION

Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **dismissed**; the petition under 37 C.F.R. §1.137(a) is **granted**; and the petition under 37 C.F.R. §1.137(b) is **dismissed as moot**.

The instant application is released to Publications Branch to be processed into a patent due course.

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

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

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ST. ONGE STEWARD JOHNSTON & REENS
986 BEDFORD STREET
STAMFORD CT 06905-5619

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JAN 13 2006
OFFICE OF PETITIONS

In re Application of :
Jonathan K. Lebo :
Application No. 10/293,744 : ON PETITION
Filed: November 13, 2002 :
Attorney Docket No. 03823-P0001A :

This is a decision on the petition, filed March 28, 2005, under 37 CFR 1.181(a) to Withdraw Holding Of Abandonment, which is being treated as a petition under 37 CFR 1.8(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. No 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 1.8(b)."

This application was held abandoned for failure to timely reply to the Nonfinal Office action mailed April 13, 2004.

In support of the petition to withdraw the holding of abandonment, petitioner has submitted a copy of check No. 59450 for $110 and a copy of the response transmittal and Petition For Extension of Time (37 CFR 1.136(a)), bearing a certificate of mailing dated August 6, 2004. The certificate of mailing would have made the reply timely if it had been received in the USPTO.

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph(a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the

correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The Office may require additional evidence to determine if the correspondence was timely filed.

In this instance, petitioner failed to comply with requirement (3) above. In this regard, petitioner has not supplied a statement by Jadira N. De La Torre, the individual who signed the certificate of mailing, which attests on a personal knowledge basis as to the previous timely mailing of the response on August 6, 2004. Accordingly, petitioner should supply a statement by Jadira N. De La Torre attesting to the previous timely mailing of the response.

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

By mail: Mail Stop PETITIONS
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Post Office Box 1450
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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

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OFFICE OF PETITIONS

In re Application of	:	
Jonathan K. Lebo	:	
Application No. 10/293,744	:	ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No. 03823-P0001A	:	

This is a decision on the petition, filed January 27, 2006, which is being treated as a renewed petition under 37 CFR 1.8(b).

The petition under 37 CFR 1.8(b) is **GRANTED**.

The holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This application is being referred to Technology Center AU 3728.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Brant L. Candelore et al	:	
Application No. 10/293,761	:	DECISION DISMISSING PETITIONS
Filed: November 13, 2002	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. SNY-S5154.01	:	

This is a decision on the petition treated under the provisions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 18, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and (iii) and 1.78(a)(5)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition fails to satisfy item (1).

In this regard, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is

included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Additionally, the claim for benefit of priority is not acceptable since it fails to properly set forth the chain of priority. In this regard, nonprovisional Application No. 10/037,914, as worded, claims priority to Application No. 60/409,675, which is improper since this provisional application was filed subsequent to the filing date thereof. The following is a suggested format:

> This application claims priority to provisional Application No. 60/409,675, filed September 9, 2002, and is a continuation-in-part of Application No. 10/037,914, filed **January 2, 2002**, which claims priority to provisional Application Nos. 60/296,673, filed **June 6, 2001**; 60/304,241, filed July 10, 2001; and 60/304,131, filed July 10, 2001.

Further, the amendment contains the wrong filing dates for Application Nos. 10/037,914 and 60/296,673. Note the corrected filing dates in bold above.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)), along with a renewed petition under 37 CFR 1.78(a)(3) and (a)(6) is required.

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 the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Brant L. Candelore et al	:
Application No. 10/293,761	: DECISION ON PETITIONS
Filed: November 13, 2002	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. SNY-S5154.01	:

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and (iii) and 1.78(a)(5)(i) and (iii)of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2136 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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	TOT CLMS	IND CLMS
10/293,761	11/13/2002	2136	1484	SNY-S5154.01	38	8

CONFIRMATION NO. 7838

CORRECTED FILING RECEIPT

OC000000024845470

24337
MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH, NC 27606

Date Mailed: 07/16/2007

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

Applicant(s)

Brant L. Candelore, Escondido, CA;
Henry Derovanessian, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number **24337**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/409,675 09/09/2002
and is a CIP of 10/037,914 01/02/2002 PAT 7,124,303
which claims benefit of 60/296,673 06/06/2001
and claims benefit of 60/304,241 07/10/2001
and claims benefit of 60/304,131 07/10/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/293,761

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Upgrading of encryption

Preliminary Class

380

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

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

JUL 20 2004

DCM

In re Application of	:	
Lloyd Weaver	:	
Serial Number: 10/293,815	:	PETITION UNDER
Filed: November 12, 2002	:	M.P.E.P.708.02 VI
For: PULVERIZED COAL PRESSURIZED GASIFIER SYSTEM	:	

This is in response to the petition filed June 10, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 VI of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 VI is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

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

Bourque & Associates, P.A.
Suite 301
835 Hanover Street
Manchester NH 03104

DEC 20 2004
PATENT & TRADEMARK OFFICE

PET DEC

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/293,815
Filing Date	November 12, 2002
First Named Inventor	Lloyd Weaver
Art Unit	
Examiner Name	
Attorney Docket Number	LWEAVER-001XX

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

Approved 5/16/05
Jacqueline M. Stone, Director
Technology Center 1700

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

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Transfer of files to another agent.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Patrick R. Scanlon, PretiFlaherty				
Address	One City Center P.O. Box 9546				
City	Portland	State	ME	Zip	04112-9546
Country	United States				
Telephone	(207)791-3110	Fax	(207)791-3111		
Signature					
Name	Daniel J. Bourque, esq.	Registration No.	35,457		
Date	December 16, 2004	Telephone No.	(603)623-5111		

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

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Office

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OCT 1 8 2005

Director's Office
Office of Patent Publication

DANIEL KIM ESQ.
26 WINCHESTER DRIVE
FREEHOLD, NJ 07728

In re Application of	:	
CHRISTENSEN, ERLING D., et al.	:	
Application No. 10/293,824	:	**DECISION ON PETITION**
Filed: November 12, 2002	:	
Attorney Docket No. 119.0011	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on April 19, 2005.

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 submitted within TWO (2) MONTHS from the mail date of this decision.

The application was held abandoned for failure to timely file corrected drawings as required in the Notice of Allowability mailed September 27, 2004. Accordingly, the Notice of Abandonment was mailed on February 18, 2005.

Petitioner argues that:

"the holding of abandonment should be withdrawn because the PTO did not mail a request for formal drawings to the Applicant."

that the PTO lost the formal drawings that were submitted on March 20, 2003.

that the "Formal Drawings Required" was not mailed with the Notice of Allowance document

Applicant, is advised, that where a requirement is made — the Notice of Allowability required corrected drawings — and no petition is filed within the period set forth in 37 CFR §1.181(f) traversing the requirement made in the Notice of Allowability, petitioner is assumed to have acquiesced to the requirement. Therefore, this application became abandoned for failure to timely file corrected formal drawings or to file a grantable petition traversing the requirement for formal drawings.

When confronted with this situation in the future, applicant may timely reply in writing (see 37 CFR § 1.2) and traverse such a requirement much as was done in the petition. Also, Applicant has the option to contact the examiner, requesting that he or she, in an Examiner Interview Summary Form or a Supplemental Notice of Allowability, which must be mailed prior to the expiration of the period for reply, upon reconsideration, withdraw any outstanding requirement.

In regards to the drawings filed on March 20, 2003, the Office acknowledges receipt of the Transmittal Of Formal Drawings on March 25, 2004; however, the formal drawings are not present or scanned in the USPTO's Image File Wrapper system.

However, the Notice of Allowability clearly indicated that corrected drawings were required.

Petitioner may seek relief by the filing a Petition to Revive An Abandoned Application under 37 CFR § 1.137 (a) or (b).

Telephone inquires relating to the filing of the Petition under 37 CFR 1.137 should be directed to the Office of Petitions at 571-272-3282 or further correspondence with respect to this matter should be addressed as follows:

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

Telephone inquires relating to this decision may be directed to the undersigned at 703-308-9250.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DANIEL KIM ESQ.
26 WINCHESTER DRIVE
FREEHOLD, NJ 07728

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of :
Erling Christensen, et al. :
Application No. 10/293,824 :
Filed: November 12, 2002 :
Attorney Docket No. 119.0011 :

ON PETITION

This is a decision on the petition, filed November 13, 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 respond in a timely manner to the Notice of Allowability mailed September 27, 2004. A Notice of Abandonment was mailed on February 18, 2005.

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

The application is being referred to the Office of Publications to oversee the review of the drawing filed April 19, 2005.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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AUG 2 8 2003

OFFICE OF PETITIONS

In re Application of BROTHERS et al. Application No. 10/293,834 Filed: November 13, 2002 Attorney Docket No. TI-34300 (EVOY003/00US) For: METHOD AND APPARATUS FOR HIGH RESOLUTION TRACKING VIA MONO-PULSE BEAM-FORMING IN A COMMUNICATION SYSTEM	DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 25, 2003. Applicants obtained a four-month extension of time to reply. Therefore, the petition is timely filed.

The petition is **dismissed**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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

Pursuant to 35 USC 116, all of the available joint inventors must make an oath or declaration for the patent application on their own behalf as required by 37 CFR 1.63, as well as make an oath or declaration on behalf of the nonsigning joint inventor in compliance with 37 CFR 1.64. "An oath or declaration signed by all the available joint inventors with

the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated." MPEP 409.03.

The Office did not receive a copy of an executed oath or declaration signed by the available inventors on behalf of the nonsigning inventor with the present petition. Rather, it appears that the Office only received an "Added Page to Combined Declaration and Power of Attorney for Signature by Joint Inventors on Behalf of Nonsigning Inventor Who Refuses or Cannot be Reached," without an executed oath or declaration. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 signed by all of the available joint inventors on behalf of themselves and the nonsigning inventor is required.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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. 9

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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SEP 17 2003

OFFICE OF PETITIONS

In re Application of Brothers et al. Application No. 10/293,834 Filed: November 13, 2002 Attorney Docket No. TI-34300 (EVOY003/00US) For: METHOD AND APPARATUS FOR HIGH RESOLUTION TRACKING VIA MONO-PULSE BEAM-FORMING IN A COMMUNICATION SYSTEM	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 9, 2003.

The petition is granted.

Petitioner has shown that John Cangeme, 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 statement of facts of Elizabeth Austin establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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

The application file is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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John Cangeme
21 Richardson Street
Billerica MA 01821

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SEP 17 2003

OFFICE OF PETITIONS

LETTER

In re Application of :
Brothers et al. :
Application No. 10/293,834 :
Filed: November 13, 2002 :
Attorney Docket No. TI-34300 :
(EVOY003/00US) :
For: METHOD AND APPARATUS FOR HIGH :
RESOLUTION TRACKING VIA MONO-PULSE :
BEAM-FORMING IN A COMMUNICATION :
SYSTEM :

Dear Mr. Cangeme:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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McANDREWS HELD & MALLOY, LTD.
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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OFFICE OF PETITIONS

In re Application of	:
Alexander G. MacInnis et al	:
Application No. 10/293,858	: DECISION ON PETITION
Filed: November 12, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 13490US02	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 10, 2006, 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 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. In this regard, the amendment is not acceptable since it states that this application (10/293,858), which has a filing date of November 12, **2002**, is claiming benefit to two subsequently filed applications; namely, 11/038,628, filed January 20, **2005**, and 10/409,809, filed April 7, **2003**. A claim for **priority** must claim benefit to a prior-filed application and not to a subsequently filed application.

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 matter must be submitted.

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

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

By hand: Customer 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
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 29 2008

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No. 10/293865 patent no.6942994

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 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 correction seeks to correct the inventorship in a now issued U. S. Patent. The genesis of the request occurred when the patent was an application; however, the correction was not made at that time... Since the application is now a patent, the appropriate rule is 37 CFR 1.324.

- The request is made under 1.322 instead of 1324
- 37 CFR 1.48 is not appropriate when the application is a patent.
- The 1.48(b) petitions are not appropriate under 1.324.

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1636

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent Issued :September 13, 2005
Date Mailed : December 7, 2009
Serial No. : 10293865
Inventor(s) :Basil J. Nikolau, et al.
Title : MATERIALS AND METHOS FOR THE ALTERATION OF ENZYME AND ACETYL COA LEVELS IN PLANTS

Re: Request for Certificate of Correction

Respecting the alleged error(s) noted in your request:

The correcting seeks to correct the inventorship in now issued U.S. Patent. The genesis of the request occurred when the patent was an application; however, the correcting was not made at that time...Since the application is now a patent, the appropriate rule is 37 CFR 1.324.

- The request is made under 1.322 instead of 1324
- 37 CFR 1.48 is not appropriate when the application is a patent.
- The 1.48(b) petitions are not appropriate under 1.324.

In view of the foregoing your request is hereby denied.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571) 272-0423
FAX 571-270-9942

Carol Larcher
Gardner Carton & Douglas LLP
191 N. Wacker Dr., Ste. 3700
Chicago, IL 60606-1698

MD/mt

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EVEREST INTELLECTUAL PROPERTY LAW GROUP
P.O. BOX 708
NORTHBROOK, IL 60065

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OFFICE OF PETITIONS

In re Application of
Kwang-Poo Chang et al.
Application No. 10/293,867
Filed: November 12, 2002
Attorney Docket No. 112461-005

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 14, 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 August 25, 2005. A response was filed November 21, 2005, but by Advisory Action of December 12, 2005, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on November 26, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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 1633 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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 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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/17/08

Paper No.: —

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No. 10/293880 Patent No: 6995730 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: _____

Douglas W. Owens
SPE

2821
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 14

G. PETER NICHOLS
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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MAR 1 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vasily A. Topolkaraev :
Application No. 10/293,915 :
Filed: November 12, 2002 :
Attorney Docket No. 11302-1110(44040-254742) :

This is a decision on the petition, filed February 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1772 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).

UNITED STATES 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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of :
Topolkaraev : LETTER REGARDING PTA
Application No. 10/293,915 :
Filed: November 12, 2002 :
Atty. Dkt. No.: 11302-1110 :
(44040-254742) :

This letter is in response to the "NOTIFICATION CONCERNING PATENT TERM ADJUSTMENT," filed April 18, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 0 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 0 days.

Applicant indicates that the PTA for the instant application should have been reduced 12 days for applicant's delay.

A review of the application history reveals that an adjustment 18 day in accordance with 37 CFR 1.704(c)(2) can be attributed to the Office. The adjustment began June 28, 2004, the day after the date that is four months after the date that a request for continued examination was filed, and ended July 15, 2004, the date of mailing of non-final Office action. At the time of allowance, there were no further adjustments for Office delay.

The reduction of 18 days is reduced two days in accordance with 37 CFR 1.704(b). The reduction began January 22, 2004, the day after the date that is three months after the date that the Notice of Allowance was mailed, and ended January 23, 2004, the date issue fee payment was received.

A further reduction of 35 days in accordance with 37 CFR 1.704(c)(8) can be attributed to applicant in connection with the request for continued examination submitted February 27, 2004. The reduction began January 24, 2004, the day after the date the issue fee payment was submitted, and ended February 27, 2004, the date the request for continued examination was filed.

As applicant is advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application is being forwarded to the Publications Division for issuance of a patent.

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

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

Enclosure: Copy of Adjustment PAIR Calculation

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Molecular Imprints
PO Box 81536
Austin, Texas 78708-1536

In re Application of
Voisin
Application No. 10/293,919
Filed: 11/13/2002
Attorney Docket No. P53-24D26

:DECISION DISMISSING PTA
:RECONSIDERATION

This decision is in response to Applicant's "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b) timely[1] filed within two months of the issuance of the application. Applicants request that the Office consider that on June 14, 2005. Applicant requests that the Office adjust the PTA calculation at the time of the notice of allowance from a determination of zero (0) days to a determnation of (83) days.

Applicants' request for reconsideration of the Patent Term Adjustment (PTA) is **DISMISSED**.

Applicants assert that the proper amount of PTA is sixty (83) because the Office did not respond to the July 6, 2004 response until January 28, 2005, accordingly, applicants assert that the Office erred in providing 83 days of Office delay under 37 CFR 1.702(a)(2). In addition, applicants assert that the Office erred in assessing 115 days of reduction because applicant may have not provided the notice to applicants on July 14, 2004 and may not have done such until October 29, 2004.

Applicants arguments are not deemed persuasive. First, the Office notes that the Office was not late in responding to the July 6, 2004 response. The Office on October 29, 2004[2] responding to applicant by asserting that the amendment filed on July 6, 2004 was non-compliant. Accordingly, this response by the Office occurred within four months of the July 6, 2004 amendment. Accordingly, no delay by the Office pursuant to 37 CFR 1.704(a)(2). As for applicants' failure to engage in reasonable efforts to conclude prosecution of the application, the Office notes that the amendment filed July 6, 2004 was noncompliant because a complete listing of all of the claims did not accompany the amendment. Since applicants' amendment was non-compliant, applicant failed to engage in reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(7).[3] Applicants argument that if Office would have

---

[1]Issue fee paid on 8/16/2005.

[2]A question has arisen whether or not the Office mailed the notice of noncompliant amendment to applicant on July 14, 2005. Accordingly, the Office will not assert that they mailed the notice on July 14, 2004.

[3]The delay began on July 7, 2004 (day after initial amendment was filed) and ended on October 29, 2004 ,when response completing amendment was filed.

mailed the notice on July 14, 2004, then applicant would have had their reduction minimized. However, applicants bear the risk of delaying prosecution when such amendment filed is noncompliant. The Office is under no requirement to respond within one week of applicant reply. Rather, the Office notes that it is required to respond within four months or grant additional PTA. The Office did reply within four months as required by 37 CFR 1.704(a)(2).

The Office has assessed the $200.00 fee pursuant to 37 CFR 1.18(e) to deposit account 50-2650. No additional fees are required in the consideration of the request for reconsideration.

The Office notes that applicants will be compensated for any delays pursuant to 37 CFR 1.702(a)(4) and 1.702(b) at the time of the issuance of the patent. Any additional delay will be noted on such issue notification letter that is mailed to applicants approximately three weeks prior to issuance. In addition, any delays by applicant pursuant to 37 CFR 1.704(c)(10) will also be assessed at the time of the issuance of the patent.

Applicants disagreeing with this decision are given TWO months to respond to this decision. No extensions of time will be granted under 37 CFR 1.136.

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the patent.

Any questions concerning this decision should be directed to Kery Fries, 571-272-7757.

Kery A Fries

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

Day : Monday
Date: 10/2/2006

PALM INTRANET

Time: 07:39:05

PTA Calculations for Application: 10/293919			
Application Filing Date:	11/13/2002	PTO Delay (PTO):	80
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	119
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
37	04/26/2005	MAIL NOTICE OF ALLOWANCE			
36	04/22/2005	ISSUE REVISION COMPLETED			
35	04/22/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	04/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
33	04/20/2005	NOTICE OF ALLOWABILITY			
32	04/12/2005	DATE FORWARDED TO EXAMINER			
31	03/28/2005	AMENDMENT AFTER FINAL REJECTION			
30	02/09/2005	CORRESPONDENCE ADDRESS CHANGE			
29	01/28/2005	MAIL FINAL REJECTION (PTOL - 326)			
28	01/27/2005	FINAL REJECTION			
27	11/26/2004	DATE FORWARDED TO EXAMINER			
26	10/29/2004	RESPONSE AFTER NON-FINAL ACTION		115	22
25	10/29/2004	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
23	07/14/2004	DATE FORWARDED TO EXAMINER			
22.1	07/06/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
22	07/06/2004	RESPONSE AFTER NON-FINAL ACTION		4	17
21	07/06/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	07/06/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	04/14/2004	REFERENCE CAPTURE ON IDS			
18	04/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	04/02/2004	MAIL NON-FINAL REJECTION	80		-1
16	03/31/2004	NON-FINAL REJECTION			

15	11/13/2002	PRELIMINARY AMENDMENT			
14	02/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	11/24/2003	REFERENCE CAPTURE ON IDS			
12	11/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	10/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	05/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	04/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	11/13/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/20/2003	APPLICATION DISPATCHED FROM OIPE			
6	03/19/2003	APPLICATION IS NOW COMPLETE			
5	02/24/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
4	01/22/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/12/2002	CLEARED BY L&R (LARS)			
2	11/19/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/13/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 4

JOHN R. LEVY
SUITE 610
5299 DTC BOULEVARD
GREENWOOD VILLAGE, CO 80111

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of:
Richard K. Brown and
Victor S. Lafay
Application No.: 10/293,920
Filed: November 13, 2002
Title of Invention: SAND CASTING FOUNDRY COMPOSITION AND METHOD USING THERMALLY COLLAPSIBLE CLAY MINERALS AS AN ANTI-VEINING AGENT

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 CFR 1.47(a), filed February 25, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Victor S. Lafay, refuses to sign the declaration.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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MAR 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

In re Application of)
Alan V. Liu et al.)
Application No. 10/293,926)
Filed: November 14, 2002)
For: **MULTI-TACTILE DISPLAY HAPTIC INTERFACE DEVICE**)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on February 23, 2005.

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

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

All attorneys/agents of Record are withdrawn.

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

CC:
James Remenick
Powell Goldstein LLP
Intellectual Property Group
901 New York Avenue, N.W., 3rd Floor
Washington, DC 20001-4413

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MCCARTER & ENGLISH LLP
CITYPLACE I
185 ASYLUM STREET
HARTFORD CT 06103

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OFFICE OF PETITIONS

In re Application of	:	
Kahn et al.	:	
Application No. 10/293,932	:	DECISION ON PETITION
Filed: 14 November, 2002	:	
Atty Docket No. 97728.00236	:	

This is a decision on the petition[1] filed on 1 February, 2006, under 37 CFR 1.137(b),[2] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 April, 2005, for failure to timely reply to the non-final Office action mailed on 13 January, 2005, which set a three (3) month shortened statutory

---

[1] It is noted that the present petition miscaptions the application number as "10/293,392". However, there is sufficient identifying information to match the present petition with the proper application file.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 25 August, 2005.

Petitioner has filed a amendment as the required reply.

The revocation and power of attorney filed on 1 February, 2006, has been accepted.

This application is being referred to Technology Center Art Unit 1655 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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MCCARTER & ENGLISH LLP
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OFFICE OF PETITIONS

In re Application of	:	
Khan et al.	:	
Application No. 10/293,932	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. 97728.00267	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510.00 extension of time fee submitted with the petition on May 10, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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BARRY E. BRETSCHNEIDER
MORRISON & FOERSTER LLP
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1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Kimura et al.	:	
Application No. 10/293,939	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. 53274000200	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 19, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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SAN DIEGO, CA 92130-2081

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OFFICE OF PETITIONS

In re Application of
Murray R. Darrach et al
Application No. 10/293,966
Filed: November 12, 2002
Attorney Docket No. 06618-882001/CIT 2749 CIP

: DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 15, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 12, 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 4, 2005 accompanies this decision on petition.

As authorized, the $750 petition to revive fee will be charged to petitioner's Deposit Account No. 06-1050.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This application is being forwarded to Technology Center Art Unit 1743.

Wan Laymon

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 4/12/05 Paper No.: _____

TO : Supervisor, Art Unit ~~2814~~ 2853

SUBJECT : Certificate of Correction Request in Patent No.: 10/293,982 6,817,702 B2

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

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

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH ~~PK 3-915/922~~ SOUTH TOWER 9A38B
PALM LOCATION 7580 - TEL. N0. 305-8309

W. Green

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☑ YES ☐ NO

☐ Comments: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

Supervisor

2853

Art Unit

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

Mail Date: 04/20/2010

Applicant	: James S. Im	: DECISION ON REQUEST FOR
Patent Number	: 7029996	: RECALCULATION of PATENT
Issue Date	: 04/18/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/294,001	: OF WYETH
Filed	: 11/13/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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WASHINGTON, DC 20231
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Paper No. 5

JUN 06 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

TIPTON L. RANDALL
19371 55TH AVENUE
CHIPPEWA FALLS WI 54729

In re Application of:
James Greenwold
Application No. 10/294,003
Filed: November 14, 2002
For: BODY-CARRYABLE, DIGITAL STORAGE MEDIUM, AUDIO/VIDEO RECORDING ASSEMBLY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP § 708.02, XI: Invention for Countering Terrorism, filed November 14, 2002.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP § 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR § 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Petitioner merely states that "a body-carryable, digital storage medium, audio/video recording assembly, is suitable for covertly recording events relating to terrorism, thereby countering such terrorism related events". A covert audio/video recorder has a myriad of other uses besides applications related to terrorism. Petitioner's specification and drawings do not disclose a specific application. A generic covert audio/video recording system (last full paragraph on page 8 of the specification) does not constitute a specific invention for countering terrorism. Otherwise, any type of concealable audio/video recorder would be deemed to have potential for 'countering terrorism'.

Applicant may consider requesting special status under MPEP § 708.02, VIII.

Accordingly, the petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate.

The application file will be returned to the Technology Center's central files storage area to await action in its regular turn.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

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MAR 24 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Tipton L. Randall
19371 55th Avenue
Chippewa Falls WI 54729

In re Application of:
James Greenwold
Application No. 10/294,003
Filed: November 14, 2002
For: BODY-CARRYABLE, DIGITAL STORAGE MEDIUM, AUDIO/VIDEO RECORDING ASSEMBLY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on January 26, 2004, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission meets the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

NUVELO
675 ALMANOR AVE.
SUNNYVALE CA 94085

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OCT 02 2003

OFFICE OF PETITIONS

In re Application of
Tang, et al.
Application No. 10/294,006
Filed: November 12, 2002
Attorney Docket No.: 787CIP4B
For: NOVEL NUCLEIC ACIDS AND POLYPEPTIDES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 25, 2003 (certificate of mailing date August 21, 2003).

The petition is **DISMISSED**.

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

The above-identified application was filed on November 12, 2002 without an executed oath or declaration. Accordingly, on March 3, 2003, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing. In addition, the Notice required petitioners to file various sequence listing submissions.

In response, on August 25, 2003 (certificate of mailing date August 21, 2003), a petition for a four month extension of time and required fee, sequence listing submissions, a declaration executed by 7 of 8 joint inventors, the surcharge, the petition fee, and the instant petition were filed. The petition and accompanying exhibits establish that non-signing inventor Wehrman was mailed and received a Declaration and Power of Attorney and an Assignment document, but Mr. Wehrman did not respond to the request that he sign the documents.

A grantable petition under 37 CFR 1.47(a) requires

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

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the

declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The petition and accompanying exhibits do not establish that a complete copy of the application was mailed to Mr. Wehrman.

Mr. Wehrman cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. Mr. Wehrman's signature on the Declaration would obligate him, under penalty of "fine or imprisonment, or both" to particulars to which Mr. Wehrman can only attest after having had the opportunity to review the subject patent application.

Mr. Wehrman must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. Petitioners must send Mr. Wehrman a copy of the above-identified application and another copy of the Declaration and Power of Attorney and assignment document and request that the sign the documents. If Mr. Wehrman does not respond or refuses to sign the documents, then petitioners will have established Mr. Wehrman's refusal to join in the filing of the application.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicants that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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SUNNYVALE CA 94085

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OFFICE OF PETITIONS

In re Application of
Tang, et al.
Application No. 10/294,006
Filed: November 12, 2002
Attorney Docket No.: 787CIP4B
For: NOVEL NUCLEIC ACIDS AND POLYPEPTIDES

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed February 25, 2004 (certificate of facsimile transmission date February 20, 2004).

The petition is granted.

Pursuant to petitioners' authorization, deposit account no. 50-1169 will be charged a three month $475.00 extension of time fee.

Petitioners have shown that the non-signing inventor, Tom Wehrman, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the reconsideration petition signed by Agent Polizotto establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the 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 1600 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

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O'MELVENY & MEYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH CA 92660

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OCT 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Katz et al.	:	
Application No. 10/294,024	:	DECISION ON PETITION
Filed: 12 November, 2002	:	
Atty Docket No. 921,000-022	:	

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

---

[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 petition is **GRANTED**.

The application became abandoned on 3 July, 2005, for failure to timely file a proper reply to the final Office action mailed 2 February, 2005, which set a three (3) month shortened statutory period for reply. On 8 July, 2005 (certificate of mailing date 5 July, 2005),[2] petitioners filed an amendment after final rejection and a two (2) month extension of time. The amendment, however, did not place the application in *prima facie* condition for allowance, and an Advisory Action was mailed on 12 August, 2005. The mailing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed a Request for Continued Examination (RCE) and indicated that the previously-filed amendment is the required reply under 37 CFR 1.114.

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 $570.00 extension of time fee submitted on 18 August, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary. The fee will be credited to counsel's deposit account, No. 50-2862.

This application is being referred to Technology Center 3600 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] The response is timely because 2 July, 2005, fell on a Saturday, and 5 July, 2005, was a federal holiday.

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DECHERT LLP
P.O. BOX 10004
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON
Application No.: 10/294,042	:	
Filing Date: November 12, 2002	:	PETITION UNDER
Docket No.: 372593-01501	:	
For: Low Power Charge Pump	:	37 CFR 1.137(b)
Method And Apparatus	:	

This is a decision on Petition Under 37 CFR 1.137(b), filed on June 27, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner, in reply to the Notice of Allowance mailed October 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 28, 2005. A Notice of Abandonment was mailed on October 25, 2005.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the Issue Fee and Publication Fee (if required), paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required since this application was filed after June 8, 1995. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

It is noted that the $665.00 previously paid toward the Issue Fee was refunded to counsel's Deposit Account on 26 July 2004. Therefore, the entire Issue Fee, in the amount of $700.00, is being charged to counsel's Deposit Account No. 50-2778, per the authorization included in the instant petition.

It is noted that the title of the instant petition refers to "37 CFR 1.137(b) & 1.47," but the petition appears to present no issues under 37 CFR 1.47. Therefore, no treatment under 37 CFR 1.47 has been given.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Telephone: 571-272-3283
Facsimile: 571-273-0459

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FISH & RICHARDSON
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

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NOV 21 2003

OFFICE OF PETITIONS

In re Application of: :
Andrew M. Lines, Alain J. Martin : ON PETITION
Uri Cummings :
Application No. 10/294,044 :
Filed: July 18, 2001 :
Title of Invention: RESHUFFLED :
COMMUNICATIONS PROCESS IN PIPELINED:
ASYNCHRONOUS CIRCUITS :

This is in response to a petition under 37 CFR 1.47(a), filed July 30, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 18, 2001, without, *inter alia*, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on December 31, 2003, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Petitioner files the instant wherein Petitioner avers that the nonsigning inventor refuses to join in the above-identified application and to execute the necessary Declaration and Assignment. This assertion is supported by Facts in Support of Petition wherein Applicant avers that "[t]he application documents (i.e. A Combined Declaration and Power of Attorney document and an Assignment document) were mailed to all joint inventors . . . ." Petition at p.4. The

petition further avers that on "Feb. 7, 2003: Another set of application documents were sent to [the nonsigning inventor] for his signature." Id. The Facts in Support of Petition also provide that the application documents were emailed to the nonsigning inventor on March 19, 2003, and on April 24, 2003.

A review of the copy of the February 7, 2003 letter filed with the instant petition reveal that "the necessary Combined Declaration and Assignment forms" were sent to the nonsigning inventor. A review of the copies of March 19, 2003, and April 24, 2003 emails reveal that the declaration and assignment documents were emailed to the nonsigning inventor.

Applicable Law

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

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for

signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

While the Applicant avers that the nonsigning inventor refuses to join in the application, and that "application papers" have been sent to the nonsigning inventor, Applicant does not aver that the application (specification, claims and drawings) was sent to the nonsigning inventor. Accordingly, where it is alleged that an inventor refuses to join an application, the MPEP requires that a copy of the application be sent to the nonsigning inventor. See, MPEP 409.03(e).

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

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

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

FISH & RICHARDSON
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

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MAY 1 2 2004
OFFICE OF PETITIONS

In re Application of: :
Andrew M. Lines, Alain J. Martin : ON PETITION
Uri Cummings :
Application No. 10/294,044 :
Filed: July 18, 2001 :
Title of Invention: RESHUFFLED :
COMMUNICATIONS PROCESS IN PIPELINED:
ASYNCHRONOUS CIRCUITS :

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a), filed April 21, 2004, noting the joinder of the inventor. The three (3) month extension-of-time fee has been charged deposit account 06-1050 as authorized in the instant petition.

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

The Declaration has been entered and made of record.

This application is being returned to the Office if Initial Patent Examination for further processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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McAndrews Held Malloy, Ltd
500 West Madison Street
Suite 3400
Chicago, IL 60661

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JAN 27 2006

TECHNOLOGY CENTER 2100

In re Application of: So et al.
Application No.: 10/294,091
Filed: November 14, 2002
Attorney Docket No.: 13721US02
For: SYSTEM AND METHOD FOR CACHING

DECISION ON PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8

This is a decision on the petition filed November 16, 2005 to withdraw the holding of abandonment. The application was abandoned for failure to receive a proper response to the Office action mailed February 28, 2005. The communication is being considered as a petition under 37 CFR § 1.8(b) as requesting the acceptance of correspondence as timely filed.

The practitioner has submitted a statement that a response was filed April 26, 2005 and has included a copy of the Auto-Reply Facsimile Transmission sheet dated April 26, 2005.

Such a fax transmission sheet serves as *prima facie* evidence of receipt in the USPTO. The evidence provided establishes that a timely response was, in fact, received on April 26, 2005. The Office failed to match the response to the application file.

However, in considering petitioners' submission, a determination must be made as to the status of the application in light of the amendment filed after a final rejection. Applicants' response to a final rejection must comply with 37 CFR § 1.113(a) in that the reply is limited to appeal or an amendment as specified in 37 CFR §1.114 (a Request for Continued Examination - RCE) or 37 CFR §1.116.

37 CFR § 1.135(b) states:

> Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

On October 19, 2005, the Office notified applicants that the amendment filed April 26, 2005 did not place the application in condition for allowance and there is no other evidence presented that applicants had timely filed a notice of appeal, an RCE, or an amendment that placed the application in condition for allowance along with appropriate extensions of time prior to August 29, 2005.

Therefore, the petition is **granted** regarding the matter of accepting applicants filing of April 26, 2005. The paper of April 26, 2005 was received and was not timely entered.

However, the petition is **dismissed** regarding the request to withdraw the holding of abandonment for the reasons already discussed above.

If petitioners desire further review of this decision, petitioners should file a Request for Reconsideration within two (2) months of the mailing date of this decision. In the alternative, petitioners may wish to consider filing a petition to revive under 37 CFR § 1.137. Telephone inquiries should be directed to the undersigned at (571) 272-3567.

Josie A Ballato
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of	:	
So, et al.	:	
Application No. 10/294,091	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. 13721US02	:	

This is a decision on the petition filed on February 21, 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 February 28, 2005. Applicants filed a copy of an Amendment on October 3, 2005, made timely because the Amendment included a Certificate of Mailing dated April 26, 2005. However, on October 19, 2005, 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, the application became abandoned on August 29, 2005. Applicants filed a petition to withdraw the holding of abandonment on November 16, 2005. However, the petition was dismissed in a decision mailed on January 27, 2006.

On January 30, 2006, the Office erroneously mailed a non-final Office action.

With the instant petition, applicant paid the petition fee, submitted the required reply to the February 28, 2005 final Office action in the form of an RCE, and made the proper statement of unintentional delay.

As applicants previously paid the fee for the RCE on November 16, 2005, $790 has been refunded to Deposit Account No. 13-0017.

The matter is being forwarded to Group Art Unit 2186 for consideration of the RCE, filed February 21, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PETER J. GORDON, PATENT COUNSEL
AVID TECHNOLOGY, INC.
ONE PARK WEST
TEWKSBURY, MA 01876

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JUL 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Bailey Gamble	:	
Application No. 10/294,094	:	DECISION ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No. 7487.0021	:	

This is a decision on the petition, filed February 5, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed June 22, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 8, 2008.

Petitioner asserts that the Office action dated June 22, 2007 was not received.

A review of the written record indicates a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was filed on January 13, 2005 but never process. Therefore, the June 22, 2007 Office action was mailed to the former address of record.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2157 for re-mailing the Office action of June 22, 2007. The period for reply will run from the mailing date of the Office action.

Irvin Dingle
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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/294,094	11/13/2002	Jonathan Bailey Gamble	7487.0021

CONFIRMATION NO. 8473

POA ACCEPTANCE LETTER

26643
PETER J. GORDON, PATENT COUNSEL
AVID TECHNOLOGY, INC.
ONE PARK WEST
TEWKSBURY, MA 01876

OC000000030780144

Date Mailed: 07/02/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/13/2005.

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.

/idingle/

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

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SEATTLE WA 98125

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Cheng Hui-Yu
Application No. 10/294,118
Filed: November 14, 2002
Attorney Docket No. DEE-PT092

This is a decision on the petition filed December 2, 2004 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned December 1, 2004 for failure to timely pay the issue fee on or before November 30, 2004. The petition to revive and this decision on petition precedes the mailing of a Notice of Abandonment.

The issue fee and petition fee are both set at $1370.00 each (not $1370 and $1330 as indicated on the Fee Transmittal submitted with the petition) and both have been charged to deposit account no. 50-2069 as per your authorization. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
John A. Fitzsimmons, et al. :
Application No. 10/294,139 :
Filed: November 14, 2002 :
Atty Docket No. FIS920020084US1 :

ON PETITION

This is a decision on the petition, filed October 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2814 for further processing of the request for continued examination under 37 CFR 1.114 filed October 20, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JEFFERY ALLEN HARDEN
P.O. BOX 4001
13 COMMERCE PLACE
JASPER, TN 37347

COPY MAILED

JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Harden & Neal	:	
Application No. 10/294,142	:	ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. P/4095-3	:	
For: KNIFE SHARPENER	:	

This decision is in response to the petition under 37 CFR 1.181, filed October 21, 2005.

The petition is dismissed.

The petition is **dismissed** and the merits of the petition will not be addressed because the petition is not signed by a proper party. No additional petition fee will be due when petitioner files a reconsideration petition.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

The petition is not signed. Therefore, it cannot be treated.

It was purportedly submitted by Jeffery Allen Harden. Jeffery Allen Harden has not provided an attorney registration number and a review of Office records does not reveal that a person named Jeffery Allen Harden has been assigned a registration number. Jeffery Allen Harden has not shown that he is an authorized representative of an assignee who has right to take action. He is one of two joint inventors.

The attempted removal of Mr. Neal as an inventor, filed on October 21, 2005, is not acceptable because it does not comply with 37 CFR 1.48, which is the rule that pertains to removal of a inventor. A petition under 37 CFR 1.48(a) is required.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from each person being added and *from each person being deleted* as an inventor that the error occurred without deceptive intention on his part; (2) an oath or declaration by each actual inventoras required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (i); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Since Mr. Neal has not been deleted as an inventor, his signature and that of Mr. Harden's are required on the petition to withdraw the holding of abandonment.

In short, Mr. Harden has not established that he is permitted to file amendments and other papers in this application on his own.

The revocation of the attorneys associated with the OSTROLENK FABER GERB & SOFFEN firm is acceptable because it is signed by both Mr. Neal and Mr. Harden. However, Mr. Harden cannot appoint a new attorney on his own. The default address is that of the first named inventor. The undersigned is sending this decision to the address for Mr. Harden, as listed on his revocation of power of attorney.

The Change of Address filed on October 21, 2005 is not acceptable for the reason stated above. Mr. Harden cannot act without Mr. Neal until Mr. Neal is properly deleted as an inventor. A courtesy copy of this decision is being mailed to the address listed on the Change of Correspondence Address submitted by Mr. Harden.

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

cc: KATHLEEN HARDEN
PO BOX 217
DUNLAP, TN 37327

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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KATHLEEN HARDEN
P.O. BOX 217
DUNLAP TN 37327

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Harden & Neal :
Application No. 10/294,142 : ON PETITION
Filed: November 12, 2002 :
Attorney Docket No. P/4095-3 :
For: KNIFE SHARPENER :

This decision is in response to the renewed petition under 37 CFR 1.181, filed July 7, 2006.

The petition is dismissed.

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

This application was held abandoned for failure to timely reply to the January 27, 2004 non-final Office action, which set an extendable three month period for reply. No extensions of time being obtained, and no reply being received, the application became abandoned on April 28, 2004. A Notice of Abandonment was mailed on August 25, 2004.

A representative of the assignee, Southern Mechanical and Structural, Inc., has stated that the last correspondence he received was from his attorney on April 2004 stating that the enclosed changes were needed prior to April 27, 2004. Petitioner appears to be arguing that a reply was filed in April 2004.

A review of the application record reveals that an unacceptable amendment was received on October 21, 2005. October 21, 2005 is well after the expiration of the period set for reply. Petitioner has provided no evidence to show that a proper reply was filed in the Office prior to April 27, 2004.

There are only three ways to get Office to recognize a date other than the date of receipt: (1) Petitioner must supply his copy of a date-stamped itemized postcard receipt. The date-stamped return postcard would constitute *prima facie* evidence that the item listed thereon (perhaps an amendment) was received on the date listed by the PTO. MPEP 503 OR (2) Petitioner must provide a copy of the original document (a signed amendment) with an affixed certificate of mailing listing the desired date as the date of deposit (See 37 CFR 1.8) OR (3) Petitioner must

provide a copy of an Express Mail label showing a "date-in" of the desired date and a copy of the amendment that contains a reference to the Express Mail receipt number (37 CFR 1.10). Petitioner has provided no evidence that a proper reply was received prior to April 27, 2004. Therefore, the petition is dismissed.

In addition, it is noted that the October 21, 2005 amendment is not acceptable because it is not signed. Per 37 CFR 1.33, an amendment must be signed. Jeffrey Allen Harden, as Vice President of the assignee of record, should submit a signed amendment with a reconsideration petition.

If petitioner is unable to provide adequate evidence that a proper reply was filed by April 27, 2004, then petitioner should consider the following options.

(1) Petitioner may wish to file a petition under 37 CFR 1.137(a) -- the unavoidable standard.

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; (2) the petition fee as set forth in § 1.17(l) -- $250.00; (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 this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Documentary evidence is the key to proving unavoidable delay.

(2) Petitioner may wish to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

The issue of inventorship will be addressed by the examiner of record once the application is no longer abandoned.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

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OFFICE OF PETITIONS

In re Patent No. 6,907,370	:	
Issue Date: June 14, 2005	:	
Application No. 10/294,147	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. 24007932.1	:	

This is a decision on the petition under 37 CFR 1.182, filed November 7, 2005, requesting issuance of duplicate Letters Patent for the above-identified application due to loss of the original Letters Patent.

The current Rule 182 petition fee is $400.00. Petitioner submitted only $130.00. The $270.00 balance due was charged to deposit account no. 13-0480.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250, extension 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor
Room C-32
Fax - 571-270-9937

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Paper No. 5

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

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MAR 0 3 2003

OFFICE OF PETITIONS

In re Application of	:	
Gunnar B. Petersen	:	
Application No. 10/294,148	:	DECISION GRANTING PETITION
Filed: 14 November, 2002	:	
Att'y Dckt. No. 06032.00006	:	

This is a decision on the petition filed on 12 February, 2003, which is treated as a petition requesting that the Notice of Incomplete Nonprovisional Application mailed on 16 December, 2002, be withdrawn.

On 14 November, 2002, the application was deposited.

On 16 December, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application stating that the application was incomplete since the application had been deposited without drawings. The Notice stated that the filing date will be the date of receipt of the missing drawings, if drawings are required. In response, on 7 January, 2003, petitioner supplied two (2) sheets of drawings. Accordingly, the application was accorded a filing date of 7 January, 2003.

In response, on 12 February, 2003, the present petition and authorization to charge the requisite petition fee were filed. Petitioners concede that the drawings were not filed with the application papers deposited on 14 November, 2002, but state that the present application incorporates by reference prior provisional Application No. 60/331,325, and that the omitted drawings are essentially the same as the drawings filed in that application.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention

under 35 U.S.C. 113 (first sentence).[1] A review of the record reveals that Claims 8-16 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. The petition fee of $130.00 is unnecessary and will be credited to counsel's deposit account, No. 19-0733.

The "Notice of Incomplete Nonprovisional Application" mailed on 16 December, 2002, is withdrawn to the extent that it stated that the application had been deposited without drawings.

The application will be processed and examined using only the application papers present on 14 November, 2002. The drawings supplied on 7 January, 2003, will not be used for processing or examination, but will be retained in the application file.

If petitioners wish to have the drawings entered in the application, a preliminary amendment adding the drawings should be filed prior to the first Office action. Obviously, anything that was not new matter in the prior application would not be new matter in this application.

The application is being forwarded for further processing with a filing date of 14 November, 2002, using only the application papers filed on that date, and for an indication in Office records that no (0) sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] MPEP 601.01(f).

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OFFICE OF PETITIONS

PAI YUNG LIN
235 CHUNG – HO BOX 8-24
TAIPEI, TAIWAN R.O.C.

In re Application of	:	
Pai Yung Lin	:	
Application No. 10/294,155	:	ON PETITION
Filed: November 12, 2002	:	
Attorney Docket No. 466AAP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 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 1, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 2, 2004.

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

This application is being forwarded to Technology Center AU 3728 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/294,172
Filing Date	November 13,2002
First Named Inventor	May, Gregory D.
Art Unit	1638
Examiner Name	Kruse, David H. Ph.D.
Attorney Docket Number	41428-0107 US

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

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

☑ all the attorneys/agents of record.

☐ The attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ The attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

APPROVED
10/13/05
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

The reasons for this request are: Client requested transfer of responsibility for application to new counsel

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☑ Change the correspondence address and direct all future correspondence to:

☐ Customer Number:

OR

☑ Firm or Individual Name	Basil S. Krikelis, McCarter & English LLP				
Address	919 N. Market Street, Suite 1800				
Address	P.O. Box 111				
City	Wilmington	State	DE	ZIP	19899
Country	United States of America				
Telephone	302-984-6300	Fax	302-984-6399		

Name	Daniel M. Becker		
Signature		Registration No.	38,376
Date	April 14, 2005	Telephone	650-324-7014

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

This collection of information is required by 37 C.F.R. 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 C.F.R. 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions by reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

SV 2114774 v1 4/14/05 9:04 AM (41428.0001)

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SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of
Ken Drottar et al.
Application No. 10/294,180
Filed: November 13, 2002
Attorney Docket No. 042390.P13806

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 22, 2008 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 14, 2007 for failure to timely reply to the Final Office Action mailed June 13, 2007, which set a three month period for response. Accordingly, a Notice of Abandonment was mailed on December 27, 2007.

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 2616 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Froehler et al.	:	
Application No. 10/294,203	:	DECISION DISMISSING
Filed: 30 September, 2003	:	PETITION
Atty Docket No. GLIS-0155	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 30 September, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of several prior-filed applications.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the

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

claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on 10 October, 2002, and was copending with prior-filed Application No. 08/599,738, at the time of filing, for which benefit is claimed. A references to the above-noted, prior filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

The reference to the above-noted, prior-filed nonprovisional application was not included in the manner specified in 37 CFR 1.78(a)(2)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2).

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 amendment filed on 30 September, 2003. However, the amendment is not acceptable because it (a) miscaptions the filing date of Application No. 08/599,738, filed on 12 February, 1996, and (b) incorrectly states that Application No. 07/976,103, filed on 23 October, 1992, is a continuation of Application No. 08/338,352, filed on 14 November, 1994. An application cannot claim the benefit of a subsequently-filed application. Clearly, the amendment contains an error with regard to the filing date of Application No. 08/599,738, and with regard to the benefit claim to Application 08/338,352. Petitioners must submit a new amendment which corrects these deficiencies.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile to the number indicated below and to the attention of Senior Petitions Attorney Douglas I. Wood.

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Charles A. Pearson
Director, Office of Petitions

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United States Patent and Trademark Office
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Brian Froehler et al	:	
Application No. 10/294,203	:	
Filed: November 14, 2002	:	
Attorney Docket No. GLIS-0155	:	

This is a decision on the petition, filed June 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1637 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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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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SEP 21 2004

OFFICE OF PETITIONS

In re Application of	:	
Froehler et al.	:	
Application No. 10/294,203	:	DECISION GRANTING
Filed: 14 November, 2002	:	PETITION
Atty Docket No. GLIS-0155	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on 7 June, 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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

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

The instant pending application was filed on 14 November, 2002, 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 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 as 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 Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

This application is being forwarded to Technology Center Art Unit 1637 for appropriate action on the amendment filed on 7 June, 2004, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Brian Hearn, for

Charles A. Pearson
Director, Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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PHILADELPHIA PA 19103

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OFFICE OF PETITIONS
ON PETITION

In re Application of	:
Brian Froehler et al	:
Application No. 10/294,203	:
Filed: November 14, 2002	:
Attorney Docket No. GLIS-0155	:

This is a decision on the petition, filed June 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1637 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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ON 6/16/04

[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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Paper No. 5

JEFFREY S. LABAW
INTERNATIONAL BUSINESS MACHINES
11400 BURNET RD.
AUSTIN TX 78758

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OFFICE OF PETITIONS

In re Application of	:	
Sluiman et al.	:	
Application No. 10/294,248	:	DECISION GRANTING
Filed: 14 November, 2002	:	PETITION
Atty's Docket No. CA920010093US1	:	

This is a decision on the petition filed on 27 February, 2003, to accord the above-identified application a filing date of 14 November, 2002, with Figures 7 and 8 contained in the priority document as a part of the original disclosure.

The petition is **GRANTED**.

On 14 November, 2002, the application was filed. On 23 December, 2002, however, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 14 November, 2001, but that Figures 7 and 8 described in the specification appeared to have been omitted from the application. A two (2)-month period for reply was set.

In response, on 27 February, 2003 (certificate of mailing date 21 February, 2003), the present petition was filed, accompanied by twelve (12) sheets of corrected drawings. Petitioners argue that Figures 7 and 8 were filed with the other application papers deposited in the USPTO on 14 November, 2002. In support, a copy of petitioner's postcard receipt bearing a USPTO Office date stamp of 14 November, 2002, and the above-identified application number and itemizing the filing of 6 sheets of drawings was filed with the present petition.

A review of the record reveals that six (6) sheets of drawings containing Figures 1-6 are located in the application file. Figures 7 and 8, however, cannot be located among the application papers deposited on 14 November, 2002.

Petitioners further assert that Figures 7 and 8 were located in the foreign priority document filed concurrently with the original application papers. A review of the Canadian priority document submitted on 14 November, 2002, reveals that it does include three (3) drawing sheets containing Figures 7 and 8. As these drawings were present on filing on 14 November, 2002, applicant is entitled to have Figures 7 and 8 in the priority document considered as part of the drawings of this application for filing date purposes. Accordingly, on petition, the drawings of Figures 7 and 8 in the Canadian priority document will be construed as part the drawings for this application.

The petition resulted from applicant's filing error and not as a result of an error on the part of the Office, as the Notice correctly stated that Figures 7 and 8 *appeared* to have been omitted. Therefore, the petition fee will not be refunded.

The application will be processed and examined using the application papers filed on 14 November, 2002, including the three (3) sheets of drawings containing Figures 7 and 8 contained in the Canadian priority document filed with the original application papers. For petitioners' convenience a copy has been made for examining purposes of the three (3) sheets of drawings containing Figures 7 and 8 as contained in the aforementioned priority document.

Receipt is acknowledged of the corrected drawings filed on 27 February, 2003. The corrected drawings are not considered part of the original disclosure and must be reviewed by the examiner for new matter.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 14 November, 2002, using the application papers filed on that date, including the copy of the three (3) sheets of drawings containing Figures 7 and 8 contained in the Canadian priority document, and for an indication in Office records that nine (9) sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-07-09

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/294289 Patent No.: 6910822

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

Angela Green
Certificates of Correction Branch
703-756-1541

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: The corrected figures are O.K.

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE **Art Unit** 3751

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
James J. Howarth :
Application No. 10/294,299 :
Filed: November 14, 2002 :
Atty Docket No. 4348.1US (MUEI-0547.01/US :

This is a decision on the petition, filed November 11, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 23, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2814 for further processing of the request for continued examination under 37 CFR 1.114 filed November 11, 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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March 17, 2008

Patent No. :6,963,143
Inventor(s) :Howarth
Issued :November 8, 2005
Title :METHOD OF BALL GRID ARRAY (BGA) ALIGNMENT, METHOD OF TESTING
:ALIGNMENT APPARATUS AND SEMICONDUCTOR DEVICE ASSEMBLY

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.

Applicants' proposed request to change data in column 9, line 13, claim 5 is not warranted. The changes as presented in the Letters Patent is the result of a decision made by the examiner and is therefore considered in accordance with the records of the Patent and Trademark Office.

In view of the forgoing applicants' request in this matter is hereby denied.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 305-8309 or (703) 305-9380 Ext. 123

Trask Britt
P.O. Box 2550
Salt Lake City, UT 84110

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS SWENSON
1118 13TH STREET, A-5
BOULDER CO 80302

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JUN 14 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Ming Li et al.
Application No. 10/294,301
Filed: November 13, 2002
Attorney Docket No. 20661.101US

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

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

The application was held abandoned on June 8, 2006, for failure to file a response within three months of the Final Office Action mailed March 7, 2006. By Advisory Action mailed June 9, 2006, petitioner was advised that the response filed May 8, 2007 did not place the application in condition for allowance. A subsequent response was filed August 18, 2006, with a certificate of mail dated August 9, 2006 however, a Notice of Abandonment was mailed December 12, 2006 indicating that while the response to the Final Office Action was filed August 18, 2006 with a two month extension of time, the extension of time only allowed for a response to be filed up to August 7, 2006.

Petitioner argues that the two month extension of time filed August 18, 2006, bearing a certificate of mail date of August 9, 2006 was timely as the Advisory Action mailed June 9, 2006 noted that since the response filed May 8, 2007 was filed within two months of the mailing of the Final Office Action, the response period expired on the later of the mail date of the Advisory Action or the date set forth in the Final Office Action.

In view thereof, the later of the two communications mailed from the USPTO would be the Advisory Action, mailed June 9, 2006. The response and two month of extension of time having a certificate of mail date of August 9, 2006 were therefore timely filed.

Accordingly, the response was timely and the Notice of Abandonment mailed December 12, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

The Notice of Appeal and the Pre-Appeal Brief Request for Review filed August 18, 2006 with a certificate of mail date of August 9, 2006 are both being referred to Technology Center 1762.

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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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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APR 27 2009

OFFICE OF PETITIONS

In re Application of

ENSLEY, Burt
Application No. 10/294,314
Filed: November 12, 2002
Attorney Docket No. **2002645-0013**

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 16, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Brenda Jarrell on behalf of all attorneys of record who are associated with customer No. 24280. All attorneys/agents associated with the Customer Number 24280 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Burt Ensley at the address indicated below.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BURT ENSLEY**
PMB 1319
2675 WESTHIGHWAY 89A
SEDONA AZ 86336

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

ROBERT N. MONTGOMERY
109 BROWNLEE AVE.
BROUSSARD LA 70518-3021

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AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of
Cully Firmin
Application No. 10/294,319
Filed: November 13, 2002
Attorney Docket No. 20021107

ON PETITION

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

The petition is GRANTED.

The above-identified application became abandoned for failure to submit replacement drawings in a timely manner in reply to the Notice To File Corrected Application Papers mailed February 10, 2003, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on April 11, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)308-5111.

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

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
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. 8

WILLIAM W. JONES
6 JUNIPER LANE
MADISON, CT 06443

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OCT 25 2004

OFFICE OF PETITIONS

In re Application of :
Anuj Bhargava et al :
Application No. 10/294,344 :
Filed: November 15, 2002 :
Attorney Docket No. C-2472 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed February 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 April 10, 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), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

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

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

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JONATHAN M. WALDMAN
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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MAY 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
KHAN, AZHAR I. et al	:	
Application No. 10/294,360	:	DECISION ON PETITION
Filed: November 14, 2002	:	TO WITHDRAW
Attorney Docket No. BELL-0182/02177	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed August 9, 2005.

The request is APPROVED.

A review of the file record indicates that attorneys/agents associated with the customer number 38,952: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, attorneys/agents associated with the customer number 38,952 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Telephone inquires concerning this decision should be directed to Amelia Au at 571-272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

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OFFICE OF PETITIONS

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

In re Application of Cartledge, et. al. Application No. 10/294,366 Filed: November 14, 2002 Attorney Docket No. 46385-278783	: : : : :	DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on September 22, 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 there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing an Appeal Brief in response to the Notice of Appeal filed November 7, 2005.

Also, the Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "we no longer represent the applicant", do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: William L. Warren
999 Peachtree Street, NE
Atlanta, GA 30309-3996

Troutman Sanders, LLP
600 Peachtree Street, NE
Atlanta, GA 30308

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE – 46TH FLOOR
PHILADELPHIA, PA 19103

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Khan I. Azhar et al	:	
Application No. 10/294,368	:	DECISION ON PETITION
Filed: November 14, 2002	:	TO WITHDRAW
Attorney Docket No. BELL-0183/02179	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Lee & Hayes, PLLC
421 W. Riverside Ave.
Suite 500
Spokane, WA 99201

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BE1-0086US

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In re Application of
Khan I. Azhar et al
Application No. 10/294,368
Filed: November 14, 2002
Attorney Docket No. BELL-0183/02179

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Lee & Hayes, PLLC
421 W. Riverside Ave.
Suite 500
Spokane, WA 99201

UNITED STATES 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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JUN 01 2010

OFFICE OF PETITIONS

Paper No.

Drummond & Duckworth
Suite 500
4590 MacArthur Blvd.
Newport Beach CA 92660

In re Application of	:	
Shipman	:	
Application No. 10/294,396	:	
Patent No. 6,918,677	:	DECISION ON PETITION
Filed: November 14, 2002	:	UNDER 37 C.F.R. § 1.378(C)
Issue Date: July 19, 2005	:	
Attorney Docket Number: 685-P-4-USA	:	
Title: ILLUMINATED KEYBOARD	:	

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on January 27, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.[1]

This petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**.

The patent issued on July 19, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on July 19, 2009, with no payment received. Accordingly, the patent expired on July 19, 2009 at midnight.

A grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

(1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37

1 Petitioner has established that the petition was previously submitted to the Office and received on July 27, 2009.

C.F.R. § 1.20;
(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

With this petition, Petitioner submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to

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

the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Drummond G. Duckworth
9090 Irvine Center Drive, 2nd Fl
Irvine, CA 92618

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reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UTAH 84110-2550

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NOV 19 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James J. Howarth :
Application No. 10/294,407 :
Filed: November 14, 2002 :
Attorney Docket No. 4348.2US (MUEI-0547.02/US

This is a decision on the petition, filed November 11, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Paper No.6

EXXONMOBIL CHEMICAL COMPANY
P O BOX 2149
BAYTOWN TX 77522-2149

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SEP 1 4 2004

OFFICE OF PETITIONS

In re Application of	:	
J. Scott Buchanan, et al..	:	
Application No. 10/294,428	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. 2002B138	:	

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

The petition is **GRANTED**.

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

The application file is being returned to Initial Patent Examination Division for further processing using the declaration filed April 28, 2004.

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Gary L. Reinert SR.	: DECISION ON REQUEST FOR
Patent Number	: 7621098	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/294,429	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1558** 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
Address: COMMISSIONER FOR PATENTS
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MCDERMOTT, WILL & EMERY
11682 EL CAMINO REAL
SUITE 400
SAN DIEGO, CA 92130-2047

Mail Date: 04/20/2010

Applicant	: Adam Godzik	: DECISION ON REQUEST FOR
Patent Number	: 7588914	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/294,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1113** 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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8180 South 700 East, Suite 200
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Sandy, UT 84070

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MAY 22 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of:	:	
Roy Dean Gatherum et al.	:	**DECISION ON PETITION**
Serial No. 10/294,451	:	**TO MAKE SPECIAL**
Filed: November 14, 2002	:	**(ENVIRONMENTAL QUALITY)**
For: FLASHING SYSTEM WITH TABS	:	

This is a decision on the petition filed November 13, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality. The delay in treating this petition is sincerely regretted.

A grantable petition to make an application special under 37 CFR 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by statements under 37 CFR 1.102 by the applicant, the assignee, or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states that applicant's invention enhances the quality of the environment "by reducing the occurrence of dangerous fungi, with associated airborne spores, which decreases the environmental quality of homes and workplaces." This statement, dealing with apparent reduction of pollutants, fails to establish for the record that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements – air, water and soil." The statement is a conclusion and fails to explain HOW the invention acts to reduce effluents.

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

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving any additional information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 5/16/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 02 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of:
Roy Dean Gatherum
Serial No. 10/294,460
Filed: November 13, 2002
For: FLASHING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition filed November 13, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality. The delay in treating this petition is sincerely regretted.

A grantable petition to make an application special under 37 CFR 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states that applicant's invention enhances the quality of the environment "by reducing the occurrence of dangerous fungi, with associated airborne spores, which decreases the environmental quality of homes and workplaces." This statement, dealing with apparent reduction of pollutants, fails to establish for the record that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements – air, water and soil." The statement is a conclusion and fails to explain HOW the invention acts to reduce effluents.

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

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving any additional information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
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RAR/tpl: 4/16/03

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KOLISCH HARTWELL, P.C.
520 SW YAMHILL STREET, Suite 200
PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Application of :
Thomas V. Foster, Jr. :
Application No.: 10/294,462 : ON PETITION
Filed: November 13, 2002 :
Attorney Docket No: LEL 301 :

This is in response to the petition under 37 CFR 1.137(b) filed August 20, 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 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed May 19, 2006. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was received within the allowable period and the application became abandoned on August 20, 2006. A Notice of Abandonment was mailed on December 18, 2006. A review of the application file history reveals an Interview Summary entered into the record on December 18, 2006, in which Examiner Robert Morgan indicates that he made several attempts, to no avail, to contact the attorney of record to inform him of the impending abandonment of the application.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (3) above.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; **and** (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).
>
> Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office may consider there to be a question as to whether the delay was unavoidable or unintentional. In such instances,
>
> (A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable"; or
>
> (B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(a) or (b) in instances in which such petition was not filed within 3 months of the date the applicant was first notified that the application was abandoned, applicants should include a showing as to how the delay between the date the applicant was first notified by the Office that the application was abandoned and the filing of a petition under 37 CFR 1.137 was (A) "unavoidable" in a petition under 37 CFR 1.137(a); or (B) "unintentional" in a petition under 37 CFR 1.137(b).

It appears that petitioner should have been aware that the application was abandoned on, or about December 18, 2006, yet the instant petition was not filed until eight months later. Petitioner did not provide not explanation for delay in filing the instant petition and how the delay was unintentional.

Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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8180 South 700 East, Suite 200
P.O. Box 1219
Sandy, UT 84070

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JUN 23 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 7

In re Application of:
Roy Dean Gatherum
Serial No. 10/294,486
Filed: November 13, 2002
For: FLANGE AND DRIP EDGE INTEGRATED WITH WINDOW FRAME

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition filed November 13, 2002, under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality. The delay in treating this petition is sincerely regretted.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states that applicant's invention "involves water management systems which reduce water intrusion into structures" and "the subject invention provides for substantially reducing the occurrence of dangerous fungi, with associated airborne spores, which decreases the environmental quality of homes and workplace." These statements, along with the remaining health related arguments, are inadequate to establish for the record that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements – air, water and soil." Specifically, it is not seen how the water management system of applicant's invention, by itself, acts to contribute to the maintenance or restoration of the air any more than an insulated window would. While such an invention may provide benefits to a user (i.e. keeping moisture outside a home, etc.), it is a stretch to conclude that the invention would materially affect the environment as required by 37 CFR 1.102(c). Furthermore, any potential health benefits associated with the applicant's invention, provide no basis for concluding that

the invention would sustain or improve the quality of the air, water or soil of the environment. Since this is the criteria, and not benefits to human health, under which the petition must be decided, it is clear that the applicant has failed to meet the requirements of Section V of MPEP 708.02.

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

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving any additional information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

SNM/dxn: 6/17/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sandy, UT 84070

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JUN 0 1 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of:
Roy Dean Gatherum
Serial No. 10/294,499
Filed: November 13, 2002
For: FLASHING FOR BUILDING STRUCTURE MOLDINGS

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition filed November 13, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality. The delay in treating this petition is sincerely regretted.

A grantable petition to make an application special under 37 CFR 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states that applicant's invention enhances the quality of the environment "by reducing the occurrence of dangerous fungi, with associated airborne spores, which decreases the environmental quality of homes and workplaces." This statement, dealing with apparent reduction of pollutants, fails to establish for the record that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements – air, water and soil." The statement is a conclusion and fails to explain HOW the invention acts to reduce such pollutants.

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

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving any additional information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

SNM/tpl: 4/30/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-145

THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 200
P.O. BOX 1219
SANDY, UT 84070

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FEB 18 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 10

In re application of
Roy Dean Gatherum
Application No. 10/294,499
Filed: November 13, 2002
For: FLASHING FOR BUILDING STRUCTURE MOLDINGS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 13, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition B) the stated reason for the withdrawal "Thorpe North & Western, LLP no longer represents the applicant." is insufficient. This statement does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Condition B) can be met by *clearly specifying* one of the valid reasons for withdrawal listed under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

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

SNM/cps: 1/14/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/294,507	11/14/2002	Eric K. Walton	OSU1159-160B	8418

8698 7590 05/05/2005

STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

EXAMINER
LOBO, IAN J

ART UNIT	PAPER NUMBER
3662	

DATE MAILED: 05/05/2005

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

Thomas Tarczon

10/294,507

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/21/05

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 6806826

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

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

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

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

Thomas A. Tarczon

SPE

3662

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

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Bond, et al.	:	
Application No. 10/294,513	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. 9092	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned April 5, 2010, the day after the date that is two months after the decision by the Board of Patent Appeals and Interferences was mailed February 4, 2010. Notice of Abandonment was mailed April 13, 2010.

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 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 fee and submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1782 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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 28, 2007

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction on Patent No.: **7025353 B2 – 10/294523**

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:

OK

VISHU MENDIRATTA
PRIMARY EXAMINER

SPE **Art Unit**

cofc.

OIPE IAP16
JAN 25 2007
PATENT & TRADEMARK OFFICE

PATENT
41244/M796

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No. : 7,025,353 **Confirmation No.** 8408
Issued : April 11, 2006
Inventor(s) : Martha I. Lydick
Application No. : 10/294,523
Filed : November 13, 2002
Title : HORSE RACING BOARD GAME

REQUEST FOR CERTIFICATE OF CORRECTION

Office of Certificates of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

P. O. Box 7068
Pasadena, CA 91109-7068

January 22, 2007

Commissioner:

Submitted herewith are two copies of a proposed Certificate of Correction for the above-referenced patent. The errors are identified in detail in the proposed certificate, and the corresponding text in the application is located as follows:

Certificate
JAN 26 2007
of Correction

Location in Patent	Location in Application
PTO errors:	
In the Claims	
Column 11, line 58, Claim 1	Amendment filed Aug. 19, 2005, pg. 2, Claim 1, line 1
Column 12, line 34, Claim 11	Amendment filed Aug. 19, 2005, pg. 4, Old Claim 15, line 1
Column 12, line 44, Claim 14	Amendment dated Aug. 19, 2005, pg. 5, Old Claim 18, line 1
Column 12, line 59, Claim 14	Amendment dated Aug. 19, 2005, pg. 5, Old Claim 18, line 15
Column 13, line 14, Claim 17	Amendment dated Aug. 19, 2005, pg. 6, Old Claim 21, line 1

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(Date of Deposit)

JAN 29 2007

U.S. Patent No. 7,025,353

Applicant errors:

In the Claims

Column 14, line 59, Claim 23	Amendment dated Aug. 19, 2005, pg. 10, Old Claim 30, line 28
Column 16, line 5, Claim 29	Amendment dated Aug. 19, 2005, pg. 12, Old Claim 38, line 3
Column 16, line 10, Claim 30	Amendment dated Aug. 19, 2005, pg. 12, Old Claim 39, line 3

Applicant(s) errors were unintentional and inadvertent, and were made in good faith through oversight. Correction is accordingly requested under 35 U.S.C. § 255, and our check for the $100 statutory fee is enclosed. Any deficiency or overpayment should be charged or credited to Deposit Account No. 03-1728. Please show our docket number with any credit or charge to our Deposit Account.

Correction of applicant(s) errors does not constitute new matter or require reexamination. Approval of this certificate is respectfully requested

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By _____

Art Hasan
Reg. No. 41,057
626/795-9900

SAH/clv
Enclosures: Certificate of Correction (2)
Check $100

CLV PAS718441.1-*-01/11/07 12:51 PM

JAN 29 2007

OIPE IAP16
JAN 25 2007
PATENT & TRADEMARK OFFICE

PATENT
41244/M796

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 29 2007
01/25/2007 SSITHIB1 00000077 7025353
100.00 OP
01 FC:1811

U.S. Patent No. 7,025,353

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JAN 2 9 2007

PTO/SB/44 (04-05)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,025,353
APPLICATION NO.: 10/294,523
ISSUE DATE : Apr. 11, 2006
INVENTOR(S) : Lydick

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:

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Column 13, line 14, Claim 17	Delete "gains", Insert --game--
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Column 16, line 5, Claim 29	Delete "representing a", Insert --representing--
Column 16, line 10, Claim 30	Delete "a different", Insert --different--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

CHRISTIE, PARKER & HALE, LLP.
P.O. Box 7068
Pasadena, California 91109-7068

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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JAN 2 9 2007

PTO/SB/44 (04-05)
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APPLICATION NO.: 10/294,523
ISSUE DATE : Apr. 11, 2006
INVENTOR(S) : Lydick

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cofc

OIPE IAP16
JAN 25 2007
PATENT & TRADEMARK OFFICE

PATENT
41244/M796

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No. : 7,025,353 **Confirmation No.** 8408
Issued : April 11, 2006
Inventor(s) : Martha I. Lydick
Application No. : 10/294,523
Filed : November 13, 2002
Title : HORSE RACING BOARD GAME

REQUEST FOR CERTIFICATE OF CORRECTION

Office of Certificates of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

P. O. Box 7068
Pasadena, CA 91109-7068

January 22, 2007

Commissioner:

Submitted herewith are two copies of a proposed Certificate of Correction for the above-referenced patent. The errors are identified in detail in the proposed certificate, and the corresponding text in the application is located as follows:

Certificate
JAN 26 2007
of Correction

Location in Patent	Location in Application
PTO errors:	
In the Claims	
Column 11, line 58, Claim 1	Amendment filed Aug. 19, 2005, pg. 2, Claim 1, line 1
Column 12, line 34, Claim 11	Amendment filed Aug. 19, 2005, pg. 4, Old Claim 15, line 1
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JAN 29 2007

U.S. Patent No. 7,025,353

Applicant errors:

In the Claims

Column 14, line 59, Claim 23	Amendment dated Aug. 19, 2005, pg. 10, Old Claim 30, line 28
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Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By _____

Art Hasan
Reg. No. 41,057
626/795-9900

SAH/clv
Enclosures: Certificate of Correction (2)
Check $100

CLV PAS718441.1-*-01/11/07 12:51 PM

JAN 29 2007

OIPE IAP16
JAN 25 2007
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PATENT
41244/M796

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JAN 29 2007
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U.S. Patent No. 7,025,353

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SAH/clv
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CLV PAS718441.1-*-01/11/07 12:51 PM

JAN 2 9 2007

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,025,353
APPLICATION NO.: 10/294,523
ISSUE DATE : Apr. 11, 2006
INVENTOR(S) : Lydick

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Column 16, line 10, Claim 30	Delete "a different", Insert --different--

MAILING ADDRESS OF SENDER (Please do not use customer number below):
CHRISTIE, PARKER & HALE, LLP.
P.O. Box 7068
Pasadena, California 91109-7068

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/294,525	11/14/2002	PETER T CHANG	LA0073 CIP	1856

23914 7590 03/04/2005

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

EXAMINER
POWERS, FIONA

ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 03/04/2005

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-40000
(609) 252-4336

Date: March 03, 2005
Application No. 10/294,525
Filed: November 14, 2002
Subject: **Substituted Azole Acid Derivatives Useful As Antidiabetic And Antiobesity Agents And Method**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed July 09, 2004 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of Narayanan Hariharan.** Note, applicants have also requested the deletion of **Peter T. Cheng** and **Hao Zhang** in a petition dated 12/15/04. However, this petition was incorrect and the two previous names are the inventors of the invention now being claimed and should appear on the BIB DATA SHEET. 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.

Joseph K. McKane

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

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BRIARCLIFF MANOR NY 10510

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Laurent Pasquier :
Application No. 10/294,531 :
Filed: November 14, 2002 :
Attorney Docket No. FR 010160 :

ON PETITION

This is a decision in response to the petition, filed August 24, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 15, 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) was obtained. Accordingly, the application became abandoned on February 16, 2006. On August 24, 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 amendment; (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2193 for consideration of the amendment filed August 24, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL J. URE
PHILIPS ELECTRONICS NORTH AMERICA CORP.
1109 MCKAY DRIVE MS41-SJ
SAN JOSE, CA 95131

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PAULA D. MORRIS & ASSOCIATES, P.C.
10260 WESTHEIMER, SUITE 360
HOUSTON TX 77042

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OFFICE OF PETITIONS

In re Application of
Summerhill, et al.
Application No. 10/294,533
Filed: November 14, 2002
Attorney Docket No. 154-28543-US

DECISION GRANTING PETITION

This is a decision on the petition, filed January 2, 2003 to accord a filing date of November 14, 2002 to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

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

The application was deposited on November 14, 2002. However, on December 16, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on November 14, 2002 describes a Figure 1, but no drawings labeled "Figure1" was filed on November 14, 2002.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process, method, or composition 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 nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without drawings will be treated as an application filed without all of the drawings 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 method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

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, but is lacking some of the figures of drawings described in the specification.

In view of the above, the "Notice" mailed December 16, 2002 was mailed in error and is hereby withdrawn.

The application is entitled to a filing date of November 14, 2002. The petition under 37 CFR 1.53(e) is **GRANTED**.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 14, 2002 and for indication in PTO records that "0" sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center 1700 for entry of the Preliminary Amendment, filed February 4, 2003 that requests deletion of all references to the omitted figure.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: PAULA D. MORRIS & ASSOCIATES PC
2925 BRIAR PARK DRIVE, SUITE 930
HOUSTON, TX 77042

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/294,542	11/13/2002	Steve Schellhaass	716818.4	1314

27128 7590 11/08/2007
BLACKWELL SANDERS LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS, MO 63101

EXAMINER
TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
11/08/2007	PAPER

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

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

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wk

Mailed:

In re application of	:	
Schellhaass et al.	:	DECISION ON
Serial No. 10/294,542	:	PETITION
Filed: November 13, 2002	:	
For: Food Product And Method Of Manufacture	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 to Invoke The Supervisory authority Of The Director. The Board Of Appeals affirmed the Examiner on August 29, 2007. A Request For Rehearing has been filed. All claims in the application stand rejected. Applicants request that the Director compel remand of the application to the Examiner for further and proper prosecution.

On November 5, 2007, the instant petition under 37 CFR 1.181 was filed.

DECISION

The Board, in its decision, affirmed the decision of the examiner in whole. After decision by the Board, the proceeding will be returned to the examiner, subject to appellant's right of appeal or other review, for such further action by appellant or by the examiner, as the condition of the proceeding may require, to carry into effect the decision.

An applicant dissatisfied with the decision in an appeal to the Board of Patent Appeals and Interferences may appeal the decision to the United States Court of Appeals for the Federal Circuit.

The petition is **Dismissed**.

Jacqueline M. Stone/wk

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert J. Lewis
BLACKWELL SANDERS LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS MO 63101

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Date Mailed : 4-18-06

Patent No.: 6,925,527
Patent Issued : August 2, 20005
Inventor(s) : Yoshiyuki Okada, et. al.
Title: A STORAGE CONTROLLING APPARATUS AND METHOD FOR COMPRESSING DATA FOR DISK STORAGE
Docket No.: 1046.1114D

Re: Request for Certificate of Correction

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

The alleged error on the title page, item [54] in the title, it is the practice to exclude words such as "Improvements in", "New", "A", 'Novel", etc., from the printed patent.

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

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

Gene M. Garner, II
Staas & Halsey, IIP
1201 New York Ave., 7th floor
Washington, DC 20005

ej

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Director's Office
Group 3700

In re Application of
Rencai Chu *et al*
Application No. 10/294,555
Filed: November 15, 2002
Attorney Docket No. VX022499

: DECISION ON PETITION

This is a decision on the petition filed on October 12, 2004 by which petitioners request supervisory review of the requirement to elect species that was promulgated on May 3, 2004, and made final on August 12, 2004. The petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is dismissed as presently being moot.

For purposes of clarity, it should be noted that this application is being taken up out of turn in view of a telephone conversation on February 17, 2005 between Mr. R. Eugene Varndell, Jr., counsel for petitioners and Steve Marcus, Special Program Examiner. For completeness, it is noted that Mr. Varndell had previously spoken with Mr. Marcus with respect to the fact that the instant petition had been filed and was awaiting a decision.

A review of the record shows that a final rejection was promulgated on August 12, 2004. In that rejection, claim 6 was finally rejected as being anticipated under 35 USC 102(a). As a result of the election of species requirement, claim 6 was the only pending claim that received an action on the merits. The record currently shows that no reply with respect to the final rejection has been filed other than the instant petition. In the conversation with Mr. Marcus on February 17, 2005, Mr. Varndell confirmed that no reply to the final rejection had been filed other than the instant petition. A Notice of Abandonment was mailed on February 18, 2005

35 USC § 133 reads in pertinent part:

> **Time for prosecuting application.**
>
> Upon failure of the applicant to prosecute the application within six months after any action therein, ... the application **shall be regarded as abandoned by the parties thereto,** unless it be shown to the satisfaction of the Director that such delay was unavoidable. (Emphasis supplied.)

37 CFR 1.144 reads:

> **Petition from requirement for restriction.**
>
> 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). (Emphasis supplied.)

37 CFR 1.181(f) reads in pertinent part:

> **Petition to the Director.**
>
> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. ...

37 CFR 1.113 reads in pertinent part:

> **Final rejection or action.**
>
> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicants ... reply is limited to appeal in the case of rejection of any claim (§ 41.31 of this title), or to amendment as specified in § 1.114 or §1.116. Petition may be taken to the Director in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). reply to a final rejection or action must comply with paragraph (c) of this section. ...
>
> ...
>
> (c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. ...

MPEP § 711.03(c) contains the following statement::

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See *Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891). **For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.** (Emphasis supplied.)

If is clear from the above cited statute, regulations, and statement of practice appearing in MPEP § 711.03(c), that this application is presently abandoned as set forth in the Notice of Abandonment mailed on February 18, 2005. It is true that the instant petition requesting supervisory review of the examiner's final restriction requirement was timely filed after final rejection in accordance with 37 CFR 1.144, and was not decided prior to February 18, 2005. Nevertheless, pursuant to 37 CFR 1.181(f), the mere filing of the petition could not, and did not, operate to stay the period for filing a proper reply to the final rejection. 37 CFR 1.113 clearly sets forth the requirements for a proper reply to a final rejection. The filing of a petition for supervisory review of a restriction requirement is not one of those requirements, and could not serve as a substitute for those requirements so as to constitute a proper reply to final rejection as required by 35 USC § 133 and 37 CFR 1.181(f).

As no proper reply to the final rejection dated August 12, 2004 has been filed, 35 USC § 133 clearly mandates that the instant application has become abandoned for failure to file a proper reply to an outstanding Office action within the statutory period for filing a reply. In view of the abandoned status of this application, the petition requesting relief from the final restriction requirement is currently moot. At such time as this application is restored to pending status, a decision on the merits of the petition will be promulgated.

Petitioner is entitled to file a request for reconsideration, without fee. Any request for reconsideration must be filed within two months of the date of this decision, and must be limited to requesting reconsideration of the procedural matter of the dismissal of the petition as being moot, rather than arguing the merits of the petition requesting supervisory review of the final restriction requirement.

PETITION DISMISSED.

Richard A. Bertsch, Director
Technology Center 3700

Varndell & Varndell, PLLC
106-A S. Columbus Street
Alexandria, VA 22314

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James J. Kulbaski
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

MAIL

JUL 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Hiroshi KITADA, et al
Appl. No.: 10/294,607
Filed: November 15, 2002
For: SYSTEM AND METHOD FOR MANAGING DOCUMENTS WITH MULTIPLE APPLICATIONS

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed May 10, 2005 to expunge the Information Disclosure Statement submitted on March 25, 2005.

The petition is **GRANTED**.

Petitioner requests that any information contained in the Information Disclosure Statement (IDS) filed on March 25, 2005 be expunged from the record. Petitioner states that applicants are uncertain about the certification status of the references listed therein and that failure to obtain the IDS of March 25, 2005 would cause irreparable harm to applicants. The petition fee set forth in 37 CFR § 1.17(h) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

It is noted that the instant application has been published on November 20, 2003. Thus, the IDS filed March 25, 2005 has already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision were not previously accessed by the public.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

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

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DEC 0 8 2005

Director's Office
Office of Patent Publication

HDSL
4331 STEVENS BATTLE LANE
FAIRFAX, VA 22033

In re Application of
SUN, TSUNG-TING , et al.
Application No. 10/294,636
Filed: November 15, 2002
Attorney Docket No. MR2349-913

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181, received in the United States Patent and Trademark Office (USPTO) on November 23, 2005.

The petition is **DISMISSED**.

The above-identified application was held abandoned for Applicants failure to timely pay the issue fee as required in the Notice of Allowance mailed April 20, 2005. The Notice of Abandonment indicates that the submitted fee of $0 is insufficient. A balance of $1,000 is due. Issue fee of $700 and publication fee of $300.

Petitioner states that "The reason of submitted fee being insufficient is because the Deposit Account No. 502751 was not replenished enough money until June 1, 2005. Without further notice from your Office, the undersigned cannot be aware of the balance still due."

On May 31, 2005, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a)...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
> 1.25 (b)... An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25(b), 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 ***unavoidably*** 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.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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HDSL
4331 STEVENS BATTLE LANE
FAIRFAX VA 22033

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OFFICE OF PETITIONS

In re Application of	:	
Sun et al.	:	
Application No. 10/294,636	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. MR2349-913	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the 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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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JJGJR.: 03-06

Paper No:__

CHIA-CHUN CHENG
P.O. BOX NO. 6-57
CHUNG-HO, TAIPEI 235 TW
TAIWAN

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OFFICE OF PETITIONS

In re Application of	:	
Cheng	:	DECISION
Application No. 10/294,638	:	
Filing Date: 15 November, 2002	:	
Attorney Docket No.: (None)	:	

This is a revised decision on the petition filed on 22 June, 2005, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

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

(It is noted, however, that Petitioner may be unable to present 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.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 30 January, 2004, with reply due absent an extension of time on or before 30 April, 2004;
- the application went abandoned after midnight 30 April, 2004;
- the Office mailed the Notice of Abandonment on 2 September, 2004;
- on 22 June, 2005, Petitioner filed a the instant petition (with copies of some docket records), and referred to comments of someone identified as an "agent"–but not identified as an agent to practice before the Office;
- notably, the petition was not timely filed in that it was not filed until more than six (6) months after the Notice of Abandonment was mailed and the petition is accompanied by no first-hand statements, but rather only an averment that someone else has given information (see: ¶(f) of 37 C.F.R. §1.181[1]);

---

[1] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(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 Director 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.(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions. [24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

- moreover, though Petitioner appears to have obtained a copy of the 30 January, 2004, Office action, Petitioner has not replied thereto–another copy of the Office action is enclosed herewith and any future petition in this matter must include a reply to said Office action.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

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

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

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

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

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

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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.[8]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather

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[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

Thus, Petitioner appears not to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment is a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[9]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

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, 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.)

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[9] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

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

Encl. 30 January, 2004, Office action
Form: Petition under 37 C.F.R. §1.137(b)

[10] 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 .)

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/294,638	11/15/2002	Chia-Chun Cheng		8714

7590 01/30/2004

Chia-Chun Cheng
P.O. Box No. 6-57
Chung-Ho, Taipei, 235
TAIWAN

EXAMINER
PATTERSON, MARIE D

ART UNIT	PAPER NUMBER
3728	2

DATE MAILED: 01/30/2004

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

Office Action Summary	Application No.	Applicant(s)
	10/294,638	CHENG, CHIA-CHUN
	Examiner	Art Unit
	Marie Patterson	3728

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is FINAL. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-8 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-8 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> **A person shall be entitled to a patent unless –**
>
> **(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.**

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brown (4745693), McFeely (2261125), or Lawrence (4103440).

3. Claims 1-5, 7, and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Einstein, Jr. (3538628).

1. Telephone inquiries regarding the status of application or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the Examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the **Tech Center 3700 Customer Service Center number is (703) 306-5648**. For applicant's convenience, the Group Technological Center FAX number is (703) 872-9306. (Note that the Examiner **cannot** confirm receipt of faxes) Please identify Examiner____ of Art Unit ____ at the top of your cover sheet of any correspondence submitted.

Inquiries only concerning the **merits** of the examination should be directd to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g. copies of references cited, form PTO-1449, for PTO-892, etc. requests for copies of such papers should be directed to (703) 308-1337.

Check out our web-site at "www.uspto.gov" for fees and other useful information.

Marie Patterson
Primary Examiner
Art Unit 3728

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.

United States Patent and Trademark Office

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- Enter all credit card information including the payment amount to be charged to your credit card and remember to sign the form. The United States Patent and Trademark Office (USPTO) cannot process credit card payments without an authorized signature.

- The USPTO does **not** accept a general authorization to charge any payment deficiency or any additional fees to a credit card.

- The USPTO does **not** accept debit cards or check cards that require use of a personal identification number as a method of payment.

- Address information is required for credit card payment as a means of verification. Failure to complete the address information, including zip/postal code, may result in the payment not being accepted by your credit card institution.

- Provide a description of your request based on the payment amount. For example, indicate the item as "basic filing fee" (patent) *or* "first maintenance fee" (patent maintenance fee) or "application for registration" (trademark) *or* "certified copy of a patent" (other fee).

- Indicate the nature of your request by the type of fee you wish to pay: Patent Fee, Patent Maintenance Fee, Trademark Fee or Other Fee. Complete information for each type of fee as applicable to identify the nature of your request. Indicate only one type of fee per form.

- If you are requesting and paying a fee based on a previously filed patent or trademark application, indicate the application/serial number, patent number or registration number that is associated with your request. "Other Fee" is used to request copies of patent and trademark documents, certified copies, assignments, and other information products.

- IDON numbers are assigned by the USPTO for customers ordering patent and trademark information and products specified as "Other Fee" on the order form. If you have been assigned an IDON number from a previous customer order, include it with your request.

- For more information on USPTO fees and amounts, refer to the current fee schedule at www.uspto.gov (click on the "Site Index" link, "Fees, USPTO" link). To request a copy by mail, call the USPTO Contact Center at (800) 786-9199 or (571) 272-1000.

- The USPTO will not include the Credit Card Payment Form among the patent or trademark records open for public inspection. Failure to use the Credit Card Payment Form when submitting a credit card payment may result in the release of your credit card information.

- Information on mailing addresses is available at www.uspto.gov (click on the "Site Index" link, "Mailing Addresses" link). You may also call the USPTO Contact Center for additional information, or to request a copy of the *Basic Facts about Patents* or *Basic Facts about Trademarks* information booklet by calling (800) 786-9199 or (571) 272-1000.

United States Patent and Trademark Office

Instructions for Completing the Credit Card Payment Form

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This Credit Card Payment Form (PTO-2038) is approved for use through 02/28/2009 under OMB Control Number 0651-0043. This collection of information is required by 15 U.S.C. § 1113 or 35 U.S.C. § 41 and 37 CFR 1.16-1.28, 1.492, or 2.6-2.7. The information must be provided by a member of the public if he or she chooses to pay a USPTO fee by credit card. This information is also used by the USPTO to charge the appropriate fee amount to the appropriate credit card account. This collection is estimated to take two minutes to complete, including gathering and preparing information and submitting the Credit Card Payment Form (PTO-2038) to the USPTO. Time will vary depending upon the individual case. Please send any comments on the amount of time required to complete this form and/or suggestions for reducing the time burden to the Chief Information Officer, USPTO, PO Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. PLEASE REFER TO THE USPTO WEB SITE, UNDER THE "SITE INDEX" LINK, "MAILING ADDRESSES" LINK FOR THE CORRECT MAILING ADDRESS.

Privacy Act Advisory Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with the request for information solicited on the Credit Card Payment Form (PTO-2038). Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the authority for the collection of this information is 15 U.S.C. § 1113 or 35 U.S.C. § 41 and 37 CFR 1.16-1.28, 1.492, or 2.6-2.7; (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the USPTO is to charge the appropriate fee amount to the appropriate credit card account. If you do not furnish the requested information, the USPTO may not be able to charge the fee to the credit card or the credit card institution may refuse to accept the charge, either of which will result in the fee being treated as not having been paid.

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. § 552(a)). 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 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 the 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 from this system of records may be disclosed, as a routine use, to the Administrator, General Services Administration (GSA), or his 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.

PTO-2038 (02-2006)
Approved for use through 02/28/2009. OMB 0651-0043
United States 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.

United States Patent and Trademark Office

Credit Card Payment Form

Please Read Instructions before Completing this Form

Credit Card Information

Credit Card Type: ☐ Visa ☐ MasterCard ☐ American Express ☐ Discover

Credit Card Account #:

Credit Card Expiration Date:

Name as it Appears on Credit Card:

Payment Amount: $ (US Dollars):

Cardholder Signature: | Date:

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City:

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Request and Payment Information

Description of Request and Payment Information:

☐ Patent Fee	☐ Patent Maintenance Fee	☐ Trademark Fee	☐ Other Fee
Application No.	Application No.	Application No.	IDON Customer No.
Patent No.	Patent No.	Registration No.	
Attorney Docket No.		Identify or Describe Mark	

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2800 POWDER MILL RD
ADELPHI MD 20783-1197

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DEC 1 5 2008

OFFICE OF PETITIONS

In re Application of :
Rosen, et al. :
Application No.: 10/294,644 : DECISION
Filing Date: 15 November, 2002 :
Attorney Docket No. ARL 02-09 :

This is a decision on the petition filed on 26 November, 2008, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 23 July, 2008, with reply due under a non-extendable deadline on or before 23 October, 2008.

The application went abandoned after midnight 23 October, 2008.

The Office mailed a Notice of Abandonment on 17 November, 2008.

On 26 November, 2008, Petitioner filed a petition seeking withdrawal of the holding of abandonment under the provisions of 37 C.F.R. §1.181, and averred, *inter alia*, timely filing and—while acknowledging that the Issue Fee Transmittal carried no mark to indicate authorization of a charge to a deposit account or a statement of a deposit account number—

Petitioner averred that the earlier 7 May, 2008, reply to a non-final Office action authorized such charges. Petitioner's reliance is misplaced: the statement to which Petitioner points is directed to fees for that filing and is not expressly what is termed a general authorization. That said, Petitioner's position is not wholly unsupportable because in an earlier exchange with the Office—specifically that on 30 January, 2006—an express statement of authorization to charge any fees during "the pendency of this application" (copy enclosed) was noted and evidenced by a resubmission of a copy of the Fee Transmittal averred to have been submitted on deposit of the application.

It is noted that between the date of the Notice of Allowance and the date on which the Issue Fee was sought to be authorized, the schedule of fees changed and the fee appropriately charged to Deposit Account 19-2201 is $1,510.00 (Code 1501)—and that fee is now charged as authorized..

Thus, Petitioner appears to have satisfied the showing requirements under the rule as set forth at MPEP §711.03(c)(I).

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. 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 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

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). And 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.[2],[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). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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).

[3] 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. (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. 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) And the Petitioner must be diligent in attending to the matter. Failure

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 17 November, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Publications Branch to be processed into a patent 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 Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

10/294644

P10/50/17 (11-01)
Approved for use through 10/31/2002 OMB 0651-0032
U.S. Patent and Trademark Office U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision

☐ Applicant claims small entity status See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 986.00

Complete if Known	
Application Number	
Filing Date	
First Named Inventor	Rosen, et al
Examiner Name	
Group Art Unit	
Attorney Docket No	ARL 02-09

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account

Deposit Account Number: 19-2201

Deposit Account Name: US Army Materiel Command

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below except for the filing fee

to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	740.00
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) ($) 740.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below	Fee Paid
Total Claims	29	9	x	18	= 162.
Independent Claims	4	1	x	84	= 84
Multiple Dependent					=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	Reissue independent claims over original patent
110	18	210	9	Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 246.00

*or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($)

SUBMITTED BY					
Name (Print/type)	WILLIAM V. ADAMS	Registration No (Attorney/Agent)	32,552	Telephone	703-617-2301
Signature				Date	15NOV 2002

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.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231

FAX HEADER SHEET

OFFICE OF COMMAND COUNSEL
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND
ATTN: AMCCC-B-IP
9301 CHAPEK ROAD
FORT BELVOIR, VA 22060-5527

FROM: BILL ADAMS
IP Branch, Business
Operations Law Division

TO: MS SINGLETON
USPTO

VOICE: (703) 806-8255 DSN 656
FAX: (703) 806-8873 DSN 656
e-mail: bill.adams@us.army.mil **or** AdamsB@hqamc-exchg.army.mil

FAX: (571) 273-1049
VOICE: (571) 272-1049

COMMENTS:

Ms Singleton,

Enclosed please find a copy of the FEE TRANSMITTAL for FY 2002 Filed with ARL 02-09 Rosen, U.S. Serial Number 10/294,644. I down loaded the File Wrapper from PAIR and could not find the form anywhere in the File. Obviously it was Filed since the Filing Fee was charged and the case was accorded a Serial Number. Please note that the Commissioner was authorized to charge any additional fees during the pendency of the application. Please let me know if I need to file additional papers.

Thank you.

If you have any questions, please call.

Sincerely,

William V. Adams 30 January 2006
DATE

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WVA 30Jan06.

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P.O. BOX NO. 6-57
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FEB 17 2006

OFFICE OF PETITIONS

In re Application of :
Liu, et al. :
Application No. 10/294,675 :
Filed: November 15, 2002 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 6, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for review.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed December 23, 2004. Accordingly, this application became abandoned on March 24, 2005. A Notice of Abandonment was mailed October 25, 2005.

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

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

The petition is granted.

The file is being forwarded to Technology Center 2100 for re-mailing of the December 23, 2004 Office action with a new period for response.

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

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

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Paper No.

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

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DEC 15 2005

OFFICE OF PETITIONS

In re Patent No. 6,903,735	:	DECISION ON REQUEST
Jeong et al.	:	FOR RECONSIDERATION OF
Issue Date: June 7, 2005	:	PATENT TERM ADJUSTMENT
Application No. 10/294,681	:	and
Filed: November 15, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 1751-315	:	CERTIFICATE OF CORRECTION

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.181 FOR EXTENSION OF PATENT TERM UNDER 37 C.F.R. § 1.705(d)," filed August 8, 2005. Patentees request issuance of a Certificate of Correction to show a patent term adjustment of three hundred sixty-three (363) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred sixty-three (363) days.

On June 7, 2005, the above-identified application matured into U.S. Patent No. 6,903,735. The instant request for reconsideration filed August 8, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 313 days. The initial determination of PTA of 363 days was reduced by 50 days for applicants filing of a copy of the Certified Priority Document filed on March 22, 2005, after the mailing of a notice of allowance on January 12, 2005.

Patentees contend that the reduction of 50 days should be removed. Patentees state that a courtesy copy of the Certified Priority Document was supplied to the examiner at his request because the original copy submitted with the application on filing was lost. On resubmission, patentees submitted a return postcard receipt to show that the document was originally filed on November 15, 2002.

Patentees' argument is well taken. It is concluded that under the circumstances the filing of the copy of the Certified Priority Document 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). Patentees have shown that these documents were previously submitted on November 15, 2002. Further, such receipt of these documents on November 15, 2002 would not have resulted in reduction of the patent term adjustment.

In view thereof, the patent term adjustment indicated on the patent should be three hundred sixty-three (363) days.

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

Payment of the fee under § 1.18(e) is required, and is not subject to refund.

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 SIXTY-THREE (363) days.

Telephone inquiries specific to this decision 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

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P.O. BOX 2246
ARLINGTON, VA 22202

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Donald C. Berghauser :
Application No. 10/294,699 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. 0650/9 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 16, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 17, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

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HICKMAN PALERMO TRUONG & BECKER, LLP
AND SUN MICROSYSTEMS, INC.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1089

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OFFICE OF PETITIONS

In re Application of Dada :
Application No. 10/294,713 : Decision on Petition
Filing Date: November 13, 2002 :
Attorney Docket No. 15437-0572 :

This is a decision on the petition filed September 11, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

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 27, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 28, 2006.

Petitioner contends the Notice of Allowance was never received.

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

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

See MPEP 711.03(c)(I).

As to item (2) above, petitioner has not explicitly stated a search of the file jacket has been performed. As to item (4), petitioner has not supplied a copy of the docket record where the Office action would have been entered had it been received.

For the reasons above, the petition cannot be granted at this time.

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

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HICKMAN PALERMO TRUONG & BECKER, LLP
AND SUN MICROSYSTEMS, INC.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1089

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of Dada	:	
Application No. 10/294,713	:	Decision on Petition
Filing Date: November 13, 2002	:	
Attorney Docket No. 15437-0572	:	

This is a decision on the petition filed December 20, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 27, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application was deemed abandoned as of July 28, 2006.

Petitioner has established non-receipt of the Notice of Allowance. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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06152005

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

JUN 16 2005

In re Application of:
JOO SOO LIM
Serial No.: 10/294,717
Filed: 15 November 2002
Title: LIQUID CRYSTAL DISPLAY DEVICE HAVING SINGLE BODIED COMPENSATING PATTERN AND METHOD OF FABRICATING THE SAME

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on October 15, 2004, to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181.

The petition to withdraw the holding of abandonment is **DISMISSED**.

An Office action (a non-final rejection) was mailed January 21, 2004, setting a three-month shortened statutory period for reply. In the absence of receipt of a response, the application became abandoned.

Petitioner asserts that counsel did not receive the Office Action. In support of the assertion, petitioner submitted the following papers as evidence of lack of receipt of the Office action: 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 docket report indicates that the Office communication was not received, and 2) a statement that a copy of the docket record "is being filed concurrently herewith". No copy of the docket record exists in the file.

A review of the file record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the

failure to receive an Office 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 where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The requirements for the copy of the docket record are set forth in M.P.E.P. § 711.03(c):

> 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.

Petitioner does not provide documentary evidence showing a record of all Office correspondence received throughout a time range in which the Office action mailed January 21, 2004 would reasonably have been expected to have been received.

Request for reconsideration of this decision must be submitted within 2 (two) months of the mailing date of this decision in order to be considered timely.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, N.W.
WASHINGTON DC 20006

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APR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Joo Soo **LIM**	:	
Application No. 10/294,717	:	DECISION ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. 873.110.00-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 21, 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 April 22, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being forwarded to Technology Center Art Unit 2871 for action on the merits commensurate with this decision.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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01162006

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

MAR 0 1 2006

In re Application of KASHIURA et al. Application No. 10/294,721 Filed: November 15, 2002 Title: SEMICONDUCTOR PHOTOSENSOR DEVICE	: : : : :	DECISION ON PETITION

This is a decision on the petition filed May 11, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A non-final Office action was mailed on August 6, 2003, setting a three-month period of response. A Notice of Abandonment was mailed on March 23, 2004.

Petitioner asserts that an Amendment in response to the Office action was timely filed in the Patent and Trademark Office on November 6, 2003. This is evidenced by a signed, certified copy of the Amendment and the postcard receipt indicating receipt of the Amendment in the Patent and Trademark Office.

The review of the application file reveals that the Amendment in response to the August 6, 2003 Office action was received and matched with the file. However, the response was not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the response to the August 6, 2003 Office action. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 1, 2005

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction on Patent No.: 6855233

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 – 9A22

Palm location 7580 - Tel. No. 308-9390 ext. 120

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 see the amended claim 20.

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:

_____

_____

_____

_____

_____

Roy Venkiy — SPE

1742 — Art Unit

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 1, 2005

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction on Patent No.: 6855233

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 – 9A22

Palm location 7580 - Tel. No. 308-9390 ext. 120

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 see the amended claim 20.

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:

_____

_____

_____

_____

_____

Roy Van Ching — **SPE**

1742 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,855,233 B2
DATED : February 15, 2005
INVENTOR(S) : Yuichi Sawada

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

Column 12,
Line 56, after claim 9, add claim 10 as follows:
-- **10.** The apparatus according to claim 1, wherein the impurity-removing device is one apparatus, or a combination of at least two apparatuses selected from the group consisting of a reverse osmosis membrane filtering apparatus, an ultra filtration membrane filtering apparatus, an ion-exchanging resin treating apparatus, an active carbon treating apparatus, and a zeolite treating apparatus. --.

Signed and Sealed this

Sixth Day of September, 2005

Jon W. Dudas

JON W. DUDAS
Director of the United States Patent and Trademark Office

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8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201-4714

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Toshio Mizuki, et al. :
Application No. 10/294,760 :
Filed: November 15, 2002 :
Attorney Docket No. 829-605 :

This is a decision on the petition, filed April 27, 2004, under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being forwarded to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of
Kenichi Tatehara et al
Application No. 10/294,761
Filed: November 15, 2002
Attorney Docket No. 740819-923

ON PETITION

This is a decision on the petition, filed October 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded 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.

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

---

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

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OCT 29 2003

OFFICE OF THE DIRECTOR
TC 3600

Clifton T. Hunt, Jr.
1100 Avebury Court
Raleigh, NC 27609

In re application of
Walter E. Durling
Application No.10/294,779
Filed: November 14, 2002
For: APPARATUS AND METHOD FOR ASSEMBLING COMPONENTS OF KNOCK-DOWN FURNITURE

: **DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on January 27, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in treating this petition is sincerely regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-0866

SNM/cps 10/21/03

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P. O. Box 2149
Baytown, TX 77522-2149

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OFFICE OF PETITIONS

In re Application of	:	
Wenyih F. Lai, et al.	:	
Application No. 10/294,780	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. 2002B137	:	

This is a decision on the petition under 37 CFR 1.182, filed December 12, 2003, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. Wenyih F. Lai

2. Ivy D. Johnson

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.

This application is being forwarded to the Publishing Division for processing into a patent.

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

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

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Paper 8

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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OFFICE OF PETITIONS

In re Application of
A. Holger Heinemann
Application No. 10/294,803
Filed: November 14, 2002
Attorney Docket No: **10191/2897**

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed September 20, 2004 and resubmitted January 15, 2009, 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 April 19, 2004, for failure to file a timely response to the non-Final Office Action mailed January 16, 2004, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed August 26, 2004. 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 to show that the Office Action mailed January 16, 2004 was not received. Petitioner also explains that after searching the file and docket records, where receipt of the office action would have been indicated if it had been received, 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 January 16, 2004, 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 3683 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
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: A. Holger Heinemann	: DECISION ON REQUEST FOR
Patent Number	: 7661772	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/294,803	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1497** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 7

INTERMEC TECHNOLOGIES CORPORATION
LEGAL DEPARTMENT
ATTENTION: PAUL A. MALTSEFF
6001 36TH AVENUE WEST
EVERETT, WA 98203

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OFFICE OF PETITIONS

In re Application of	:	
Jean-Louis Massieu et al	:	
Application No. 10/294,806	:	ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No. STC201-02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 18, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 19, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

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

Wan Laymon
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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PILLSBURY WINTHROP
INTELLECTUAL PROPERTY GROUP
1600 TYSONS BOULEVARD
McLEAN, VA 22102

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Jacobus Burghoorn	:
Application No. 10/294,817	:
Filed: November 15, 2002	:
Attorney Docket No. P 300265 P-0167.011-US	:

This is a decision on the petition, filed April 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 January 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 2851 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

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Paper No. 050304

Steven J. Henry
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

MAY 6 2004

In re Application of:	:	
REDLER *et al.*	:	DECISION ON PETITION
Serial No.: 10/294,849	:	TO MAKE SPECIAL
Filed: November 14, 2002	:	
Attorney Docket No.: **R00585.70000.US**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed December 18, 2002, 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 reduces the expense and increases the flexibility and efficiency of solar energy collectors, over conventional solar energy collecting systems. Thus materially contributing to the development of solar energy resources.

For the above stated reasons, the petition and statement are adequate to qualify the application for special status under 37 C.F.R. § 1.102(c) and pursuant to M.P.E.P. § 708.02, Section VI. Accordingly, the petition is GRANTED.

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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD, PO BOX 1343
PISCATAWAY, NJ 08855-1343

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JAN 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Myriam Peeters et al	:	
Application No. 10/294,874	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. F1541-00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 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 June 2, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 3, 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.

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

This matter is being referred to Technology Center AU 1751.

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

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Paper No. 8

GLENNA HENDRICKS, ESQ.
P.O. BOX 2509
FAIRFAX, VA 22031-2509

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JUN 2 3 2004

OFFICE OF PETITIONS

In re Application of
Alan Hunton
Application No. 10/294,889
Filed: November 15, 2002
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2004, which is being treated solely as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed December 19, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. A Notice of Incomplete Reply (Nonprovisional) was mailed on March 20, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 20, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090804

DATE : August 04, 2009

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,519,016

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:

/NICK CORSARO/
Supervisory Patent Examiner.Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KATTEN MUCHIN ROSENMAN LLP
C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 6,954,197	:	
Issue Date: October 11, 2005	:	
Application No. 10/294,917	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: November 15, 2002	:	
Attorney Docket No. 204694.00089	:	

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 **DIMISSED**.

37 CFR 1.28(c) 2 (ii) states:

> (ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:
>
> (A) Each particular type of fee that was erroneously paid as a small entity, (*e.g.*, basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
> (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
> (C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

Cc: **SIM & MCBURNEY**
330 UNIVERISITY AVENUE
6TH FLOOR
TORONTO, ONTARIO
M5G 1R7, CANADA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 4, 2005

TO SPE OF : ART UNIT 3727

SUBJECT : Request for Certificate of Correction on Patent No.: 6,938,740 (10/294927) ~~(09/658,888)~~

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:

SPE

3781
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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

DOUGHERTY, CLEMENTS & HOFER
1901 ROXBOROUGH ROAD
SUITE 300
CHARLOTTE, NC 28211

COPY MAILED

APR 0 7 2003

OFFICE OF PETITIONS

In re Application of Slautterback, et al. Application No. 10/294,929 Filed: November 14, 2002 Attorney Docket No. 3461 For: UNIVERSAL WRIST SPLINT WITH REMOVABLE DORSAL STAY	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 25, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Jody Brown 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

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

JODY BROWN
16405 TURQUOISE TRAIL
WESTON, FL 33331

In re Application of Slautterback, et al. Application No. 10/294,929 Filed: November 14, 2002 Attorney Docket No. 3461 For: UNIVERSAL WRIST SPLINT WITH REMOVABLE DORSAL STAY	LETTER **COPY MAILED** APR 0 7 2003 **OFFICE OF PETITIONS**

Dear Madam:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANGELA VEDEPO
2809 SUNSET DR. NE
SUISHER, IA 52338

COPY MAILED

JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Angela Maria Vedepo :
Application No. 10/294,949 :
Filed: November 14, 2002 :
Attorney Docket No. :

ON PETITION

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 **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.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 19, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 20, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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) (1).

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the July 19, 2004 Office action. A courtesy copy of this Office action is being mailed with this decision. Accordingly, the petition to revive cannot be granted until the response to the Office action is received.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: courtesy copy of the July 19, 2004 Office action

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/294,949	11/14/2002	Angela Maria VeDepo		8692

7590 07/19/2004

Angela VeDepo
19523 V. Ave
Columbus Jct., IA 52738

EXAMINER
MORAN, KATHERINE M

ART UNIT	PAPER NUMBER
3765	

DATE MAILED: 07/19/2004

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

Office Action Summary	Application No.	Applicant(s)	
	10/294,949	VEDEPO, ANGELA MARIA	
	Examiner	Art Unit	
	Katherine M Moran	3765	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 November 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 2* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _ is/are allowed.

6)☒ Claim(s) *1 and 2* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Drawings

1. A utility patent application reciting a physical structure should include a drawing which illustrates the claimed structure.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Nguyen et al. (Nguyen, U.S. 6,216,278). Nguyen discloses the invention as claimed. Nguyen teaches a protective cap 15, made of a tightly woven material 2, adapted to be placed over the hair while using indoor tanning facilities to protect a wearer's hair from ultraviolet light penetrating the hair shaft.

PREFERRED FORMAT

The following is a preferred format for a response to this Office Action (this would also help in making sure the response is matched to the proper application):

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: [applicant's name] Serial No. [#] Filed: [applicant's filing date] For: [title of the invention]	Art Unit: 3765 Examiner: Katherine Moran

RESPONSE

Honorable Commissioner of Patents and Trademarks	Date:[applicant's mailing date]

Washington, DC 20231

Sir:

In response to the Office Action of [date mailed by Examiner], please amend the above application as follows:

IN THE SPECIFICATION:

As required by 37 CFR 1.121, Applicant should identify the location to delete, replace, or add a paragraph. Any replacement or added paragraphs should be in clean form, that is, without

markings to indicate the changes that have been made, and also include another version of the replacement paragraph on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of the paragraph. The changes may be shown by brackets (for deleted matter) or underlining (for added matter). A marked up version does not have to be supplied for an added paragraph or a deleted paragraph as it is sufficient to state that a particular paragraph has been added, or deleted. If Applicant chooses to submit a substitute specification, this should include an instruction to replace the specification including a signed and dated statement that the substitute specification does not include any new matter. Applicant should also include the substitute specification and a marked-up copy of the substitute specification which shows all changes relative to the previous version of the specification. The changes may be shown by brackets (for deleted matter), or underlining (for added matter).

IN THE CLAIMS:

As required by 37 CFR 1.121, amendments to a claim must be made by rewriting the claim with all changes (e.g., additions, deletions, modifications) included. A rewritten or newly added claim must be in clean form, without markings to indicate the changes that have been made. A parenthetical expression should follow the claim number indicating the status of the claim as amended or newly added (e.g. "amended", "twice amended", or "new"). If a claim is amended by rewriting the claim with the same number, the amendment must be accompanied by another version of the rewritten claim, on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of that claim.

IN THE ABSTRACT:

Applicant should follow the instructions given above for specification amendments. If the abstract was noted as missing, applicant is asked to place the Abstract on a separate sheet of

paper (as required by MPEP § 608.01(b)). This would avoid a lengthy Examiner's Amendment to do so when and if this application is passed to issue.

REMARKS:

In this section Applicant should explain (in general) what changes were made to the application (Specification, Abstract, Drawings, etc.) and should point out any disagreements with the Examiner's findings. Applicant should also discuss the references applied against the claims, explaining how claims might avoid the references or distinguish from them.

The amendment should then be signed by Applicant and dated.

CERTIFICATE OF MAILING

Following is a suggested format for the certificate of mailing under 37 CFR 1.8© which should be included with all correspondence.

"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 of Patents and Trademarks, Washington, D.C. 20231, on _____"

Name of applicant, assignee, or Registered Representative

_____

Signature _____

Date _____

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carmony et al. (U.S. 3,327,720), Watanabe (U.S. 5,265,278), and Wasmuth (U.S. 6,625,817) teach relevant prior art.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (703) 305-1025. The official and after final fax number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

July 13, 2004

KMoran

Katherine Moran

Primary Examiner, AU 3765

UNITED STATES 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.

DAVID S. RESNICK
NIXON PEABODY LLP
101 FEDERAL STREET
BOSTON, MA 02110

COPY MAILED

SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Larry I. Benowitz
Application No. 10/294,965
Filed: November 14, 2002
Attorney Docket No. 701039-052163-CIP

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 13, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications set forth in an accompanying amendment.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within **TWO MONTHS** from the mail date of this decision. Note 37 CFR 1.181(f).

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;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on November 14, 2002. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

---

[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment [2] deleting the incorporation by reference statement to the prior-filed provisional applications, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment and renewed petition by facsimile transmission to the number indicated below and to the attention of Karen Creasy .

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

By mail: U.S. Patent and Trademark Office
P.O. Box 2327
Mail Stop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

---

[2]Note 37 CFR 1.121

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

DAVID S. RESNICK
NIXON PEABODY LLP
101 FEDERAL STREET
BOSTON, MA 02110

COPY MAILED

OCT 2 8 2003

OFFICE OF PETITIONS

In re Application of
Larry I.Benowitz
Application No. 10/294,965
Filed: November 14, 2002
Attorney Docket No. 701039-052163-CIP

: 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 by facsimile transmission on October 8, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in an accompanying amendment.

The petition is **Granted**.

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

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on November 14, 2002. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional applications 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 the prior-filed provisional 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)(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. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

The examiner of Technology Center AU 1646 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119 to the prior-filed provisional applications.

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

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.
10/294,965	11/14/2002	Larry I. Benowitz	701039-052163-CIP	8830

50828 7590 06/11/2007
DAVID S. RESNICK
100 SUMMER STREET
NIXON PEABODY LLP
BOSTON, MA 02110-2131

EXAMINER
GUCKER, STEPHEN

ART UNIT	PAPER NUMBER
1647	

MAIL DATE	DELIVERY MODE
06/11/2007	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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In re Patent No. BENOWITZ, LARRY I.	:	
Issue Date: 2/15/05	:	**DECISION GRANTING**
Appl No.: 10/294,965	:	**PETITION**
Filed: November 14, 2002	:	*37 CFR 1.324*
For: addition of inventor	:	
	:	
	:	
	:	

This is a decision on the petition under 37 CFR 1.48, filed 4/18/05. 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.

Janet L. Andres
Supervisory Patent Examiner
Art Unit 1649
Patent Examining Group 1600

DAVID S. RESNICK
100 SUMMER STREET
NIXON PEABODY LLP
BOSTON, MA 02110-2131

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Clifford L. Winings et al	:	
Application No. 10/294,966	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. FCI-2685/C3472	:	

This is a decision on the petition, filed February 16, 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 29, 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 2873 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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Paper No. _____

Date : February 17, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Clifford L. Winings et al
Application No. :10/294,966
Filed :November 14, 2002

The above-identified application has been assigned Patent No. 6,863,577 and an issue date of March 8, 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 March 8, 2005:

"All reference to Patent No. 6,863,577 to Clifford L. Winings et al of Pennsylvania for CROSS TALK REDUCTION AND IMPEDANCE-MATCHING FOR HIGH SPEED ELECTRICAL CONNECTORS appearing in the Official Gazette of March 8, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, 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

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Paper No.

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

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SEP 24 2008

In re Application of Herman Diaz Arias Application No. 10/294,972 Filed: November 14, 2002 Attorney Docket Number: 091078.1198 Title: NON-CONTACT LEVEL DETECTOR FOR FLUIDS IN A CONTAINER	:	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the petition filed August 26, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on July 13, 2006. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on September 14, 2006. A Notice of Abandonment was mailed on April 24, 2007.

With this petition, Petitioner has indicated that a Pre-Appeal Brief Request for Review was filed concurrently with the Notice of Appeal, a Notice of Panel Decision from Pre-Appeal Brief

Request for Review has not been received, and that an Appeal Brief is not required until the Office mails a Notice of Panel Decision from Pre-Appeal Brief Request for Review.

Pre-Appeal Brief Request for Review practice was established via the publication of 1296 O.G. 67 on July 12, 2005, and was extended until further notice via the publication of 1303 O.G. 21 on February 7, 2006. The former indicates:

> If the [Pre-Appeal Brief] request [for Review] is filed with the notice of appeal, the period of time for filing the appeal brief will be the later of the two-month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request.
>
> 1296 O.G. 67 at section 1. See also section 7.

The electronic file has been reviewed, and it is clear that a Pre-Appeal Brief Request for Review was filed concurrently with the Notice of Appeal on July 13, 2006. The record does not indicate that the Office has mailed a decision by the pre-appeal brief conference panel, *i.e.* a Notice of Panel Decision from Pre-Appeal Brief Request for Review.

As such, it is clear that Petitioner was not required to submit an Appeal Brief.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Technology Center 2800 will be made aware of this decision. The Technology Center will notify Herzon Williams (the Technology Center Art Unit Supervisor of the examiner of record) of this decision, so that a panel of examiners experienced in the field of technology can be designated to review applicant's remarks and the examiner's rejections.[1]

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

---

1 See 1296 O.G. 67 at section 5.
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

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Date Mailed : 04/30/09

Patent No. : 7118599 B2
Patent Issued : 10/10/06
Docket No. : **F-252**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 02/02/09; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/23/09

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10294980 Patent No.: 7118599 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: the continuity data has been changed, however, the use of titles for each application claiming priority to is not used in Application data and thus is not entered to be part of the continuity data. Additionally, the incorporation by reference statement is also not part of continuity data and is not to be part of the corrected data. See annotated sheet. Also insert after "10/140,153 (filed May 7,2002), ---09/970,479 is and after "09/968,046 (filed October 1,2001) and insert ---10/140,153 is ----

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Corrine McDermott/ 3738

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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SPINE MP
LERNER, DAVID, ET AL.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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MAY 04 2009

OFFICE OF PETITIONS

In re Patent No. 7,118,599 :
Issued: October 10, 2006 :
Application No. 10/294,980 : ON PETITION
Filed: November 14, 2002 :
Attorney Docket No. SPINE 3.0-437 :
CIPCIPCIPCIPCIPCIPCON X

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed February 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of the prior-filed nonprovisional applications set forth in the amendment filed August 4, 2006.

The petition is **DISMISSED AS MOOT**.

The instant pending nonprovisional application was filed on November 14, 2002. A reference to the prior-filed applications was included in the first sentence of the specification following the title. However, petitioner wishes to correct the relationships of each prior-filed application to the instant application.

As stated in MPEP 201.11(V):

A petition under 37 CFR 1.78(a)(3) and the surcharge would not be required for correcting a timely submitted benefit claim for the following situations:

> (A) Changing the relationship of the applications (e.g., changing from "continuation" or "divisional" to "continuation-in-part" or from "continuation-in-part" to "continuation" or "divisional");
>
> (B) Changing the filing date of a prior-filed nonprovisional or provisional application; and
>
> (C) Changing a benefit claim of a prior-filed provisional application under 35 U.S.C. 120 (e.g., "This application is a continuation of prior-filed provisional application No. ---") to a benefit claim of the same provisional application under 35 U.S.C. 119(e) (e.g., "This application claims the benefit of prior-filed provisional application No. ---") during the pendency of the later-filed application. Note, however: If the later-filed application has issued as a patent, the correction cannot be made by a certificate of correction and would not be effective in a reissue application because the term of a patent is measured from the

prior application's filing date and removing the benefit claim under 35 U.S.C. 120, 121, or 365(c) would have the effect of lengthening the term of the patent.

Since the only corrections to the priority claim in the original specification are changes the relationships of the applications, a petition under 37 CFR 1.78(a)(3) is not required.

In view of the unnecessary petition, the surcharge fee of $1410.00 will be credited to petitioner's deposit account.

A Corrected Filing Receipt, with the desired relationship changes, is enclosed.

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 the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/294,980	11/14/2002	3738	670	F-252	20	3

CONFIRMATION NO. 9500

CORRECTED FILING RECEIPT

51640
SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000035625987

Date Mailed: 04/23/2009

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

Applicant(s)

Joseph P. Errico, Kirkland, WA;
Michael W. Dudasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Power of Attorney:
Timothy Bortree--43506

Domestic Priority data as claimed by applicant

This application is a CON of 10/256,160 09/26/2002 PAT 6,989,032
which is a CIP of 10/175,417 06/19/2002
which is a CIP of 10/151,280 05/20/2002
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
is a CIP of 09/968,046 10/01/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 01/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/294,980**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

ARTIFICIAL INTERVERTEBRAL DISC

Preliminary Class

623

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).

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).
Dated: August 10, 2009
Electronic Signature for Brian R. Tomkins: /Brian R. Tomkins/

Docket No.: SPINE 3.0-437 CIPCIPCIPCIPCIPCON VIII
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Errico et al.

Patent No.: 7,044,969

Issued: May 16, 2006

For: ARTIFICIAL INTERVERTEBRAL DISC HAVING LIMITED ROTATION USING A CAPTURED BALL AND SOCKET JOINT WITH A RETAINING CAP AND A SOLID BALL HAVING A PROTRUSION

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

REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.322

Dear Madam:

Enclosed herewith is a Certificate of Correction with respect to the above-identified U.S. Patent.

The corrections indicated should be made as the application originally filed does not contain such errors. There is no requirement for payment of a fee since the errors were made by the Patent Office.

Do Not Enter /Brian Pellegrino/ 9/9/09

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,044,969
APPLICATION NO.	:	10/294,984
ISSUE DATE	:	May 16, 2006
INVENTOR(S)	:	Joseph P. Errico, Michael W. Dudasik, and Rafail Zubok

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

****Column 1, Lines 9-47, please delete the current text and insert the following:**

--The present application is a continuation application of U.S. Patent Application Serial Number 10/256,160 (filed September 26, 2002) entitled "Artificial Intervertebral Disc Having Limited Rotation Using a Captured Ball and Socket Joint With a Solid Ball and Compression Locking Post", which is a continuation-in-part application of U.S. Patent Application Serial Number 10/175,417 (filed June 19, 2002) entitled "Artificial Intervertebral Disc Utilizing a Ball Joint Coupling", which is a continuation-in-part application of U.S. Patent Application Serial Number 10/151,280 (filed May 20, 2002) entitled "Tension Bearing Artificial Disc Providing a Centroid of Motion Centrally Located Within an Intervertebral Space", which is a continuation-in-part application of both U.S. Patent Application Serial Number 09/970,479 (filed October 4, 2001) entitled "Intervertebral Spacer Device Utilizing a Spirally Slotted Belleville Washer Having Radially Extending Grooves" as well as U.S. Patent Application Serial Number 10/140,153 (filed May 7, 2002) entitled "Artificial Intervertebral Disc Having a Flexible Wire Mesh Vertebral Body Contact Element", the application 09/970,479 **~~former~~ being a continuation-in-part application of U.S. Patent Application Serial Number 09/968,046 (filed October 1, 2001) entitled "Intervertebral Spacer Device Utilizing a Belleville Washer Having Radially Extending Grooves" and the ~~latter~~ being a continuation-in-part application of both U.S. Patent Application Serial Number 09/970,479 (detailed above) as well as U.S. Patent Application Serial Number 10/128,619 (filed April 23, 2002) entitled "Intervertebral Spacer Having a Flexible Wire Mesh Vertebral Body Contact Element", which is a continuation-in-part application of both U.S. Patent Application Serial Number 09/906,119 (filed July 16, 2001) and entitled "Trial Intervertebral Distraction Spacers" as well as U.S. Patent Application Serial Number 09/982,148 (filed October 18, 2001) and entitled "Intervertebral Spacer Device Having Arch Shaped Spring Elements". All of the above mentioned applications are hereby incorporated by reference herein in their respective entireties.--**** application 10/140,153

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Brian R. Tomkins
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090

PTO/SB/44 (09-07)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,044,969

APPLICATION NO. : 10/294,984

ISSUE DATE : May 16, 2006

INVENTOR(S) : Joseph P. Errico, Michael W. Dudasik, and Rafail Zubok

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 the Face Page, section (63), please delete the current text and insert the following:**

--Continuation application of 10/256,160, filed September 26, 2002, now Pat. No. 6,989,032, which is a continuation-in-part application of 10/175,417, filed June 19, 2002, which is a continuation-in-part application of 10/151,280, filed May 20, 2002, which is a continuation-in-part application of 09/970,479, filed October 4, 2001, now Pat. No. 6,669,730, and application 10/140,153, filed May 7, 2002, now abandoned. Application 09/970,479 is a continuation-in-part application of 09/968,046, filed October 1, 2001, now abandoned, and application 10/140,153 is a continuation-in-part application of 09/970,479 and 10/128,619, filed April 23, 2002, now Pat. No. 6,607,559, which is a continuation-in-part application of both 09/906,119, filed July 16, 2001 and 09/982,148, filed October 18, 2001, now Pat. No. 6,673,113. --**

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Brian R. Tomkins
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).
Dated: September 15, 2009
Electronic Signature for William A. Di Bianca: / William A. Di Bianca /

Docket No.: SPINE 3.0-437 CIPCIPCIPCIPCIPCON VIII
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Errico et al.

Patent No.: 7,044,969

Issued: May 16, 2006

For: ARTIFICIAL INTERVERTEBRAL DISC HAVING LIMITED ROTATION USING A CAPTURED BALL AND SOCKET JOINT WITH A RETAINING CAP AND A SOLID BALL HAVING A PROTRUSION

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

REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.322 & COMMUNICATION

Dear Madam:

Enclosed herewith is a revised Certificate of Correction with respect to the above-identified U.S. Patent. Please replace the Certificate of Correction filed on August 10, 2009 with the enclosed Certificate of Correction.

The revisions to the Certificate of Correction were made after a telephone discussion with Examiner Pellegrino on September 9, 2009 regarding current Patent Office formatting on the face page of issued patents. The revisions are submitted in order to conform to the Patent Office formatting.

OK TO ENTER: /BP/ 09/29/2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SPINE WP
LERNER, DAVID, ET AL.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

MAILED

NOV 10 2009

OFFICE OF PETITIONS

In re Patent No. 7,044,969
Issue Date: May 16, 2006
Application No. 10/294,984
Filed: November 14, 2002
Attorney Docket No. F-250

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed August 10, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications, by way of a certificate of correction.

The petition is **granted**.

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

The instant application was filed November 14, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority 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.

As the 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.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed applications will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,410.00 surcharge fee, as well as the $100 certificate of correction fee, has been charged to petitioner's Deposit Account No. 12-1095 as authorized.

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

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/294,984	11/14/2002	3738	670	F-250	20	3

CONFIRMATION NO. 2532

CORRECTED FILING RECEIPT

51640
SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000038694490

Date Mailed: 11/10/2009

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

Applicant(s)

Joseph P. Errico, Kirkland, WA;
Michael W. Dudasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Power of Attorney:
Joseph Errico--38131
Timothy Bortree--43506

Domestic Priority data as claimed by applicant

This application is a CON of 10/256,160 09/26/2002 PAT 6,989,032
which is a CIP of 10/175,417 06/19/2002 PAT 7,563,285
which is a CIP of 10/151,280 05/20/2002 PAT 7,604,664
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
is a CIP of 09/968,046 10/01/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 01/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/294,984**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

ARTIFICIAL INTERVERTEBRAL DISC HAVING LIMITED ROTATION USING A CAPTURED BALL AND SOCKET JOINT WITH A RETAINING CAP AND A SOLID BALL HAVING A PROTRUSION

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

APR 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,060,098	:	
Issued: June 13, 2006	:	
Application No. 10/294,985	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. SPINE 3.0-437	:	
CIPCIPCIPCIPCIPCIPCON IX		

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed February 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of the prior-filed nonprovisional applications set forth in the amendment filed March 21, 2005.

The petition is **DISMISSED AS MOOT**.

The instant pending nonprovisional application was filed on November 14, 2002. A reference to the prior-filed applications was included in the first sentence of the specification following the title. However, petitioner wishes to correct the relationships of each prior-filed application to the instant application.

As stated in MPEP 201.11(V):

A petition under 37 CFR 1.78(a)(3) and the surcharge would not be required for correcting a timely submitted benefit claim for the following situations:

> (A) Changing the relationship of the applications (e.g., changing from "continuation" or "divisional" to "continuation-in-part" or from "continuation-in-part" to "continuation" or "divisional");
>
> (B) Changing the filing date of a prior-filed nonprovisional or provisional application; and
>
> (C) Changing a benefit claim of a prior-filed provisional application under 35 U.S.C. 120 (e.g., "This application is a continuation of prior-filed provisional application No. ---") to a benefit claim of the same provisional application under 35 U.S.C. 119(e) (e.g., "This application claims the benefit of prior-filed provisional application No. ---") during the pendency of the later-filed application. Note, however: If the later-filed application has issued as a patent, the correction cannot be made by a certificate of correction and would not be effective in a reissue application because the term of a patent is measured from the

prior application's filing date and removing the benefit claim under 35 U.S.C. 120, 121, or 365(c) would have the effect of lengthening the term of the patent.

Since the only corrections to the priority claim in the original specification are changes the relationships of the applications, a petition under 37 CFR 1.78(a)(3) is not required.

In view of the unnecessary petition, the surcharge fee of $1410.00 will be credited to petitioner's deposit account.

A Corrected Filing Receipt, with the desired relationship changes, is enclosed.

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 the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/294,985	11/14/2002	3738	670	F-251	20	3

CONFIRMATION NO. 2508

CORRECTED FILING RECEIPT

530
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000035560082

Date Mailed: 04/20/2009

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

Applicant(s)

Joseph P. Errico, Kirkland, WA;
Michael W. Dudasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/256,160 09/26/2002 PAT 6,989,032
which is a CIP of 10/175,417 06/19/2002
which is a CIP of 10/151,280 05/20/2002
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
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and is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 01/08/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/294,985**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

ARTIFICIAL INTERVERTEBRAL DISC HAVING LIMITED ROTATION USING A CAPTURED BALL AND SOCKET JOINT WITH A COMPRESSION LOCKING POST AND A SOLID BALL HAVING A PROTRUSION

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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

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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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/10/08

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10294989 Patent No.: 7044970 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Formatted: Indent: Left: 1.22"

Comments: the certificate of correction is not needed since there is no change in continuation data. The addition of titles is not permitted or needed on the face page. Additionally an incorporation by reference statement is to be included in the specification and not the face page. The statement is already present in the specification.

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 03/30/09

Patent No. :7044970 B2
Patent Issued :05/16/06
Docket No. : **F-255**

Re: Request for Certificate of Correction

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

Respecting the alleged error, in the title page, Column 1, section (63), the certificate of correction is not needed since there is no change in continuation data. The addition of titles is not permitted or needed on the face page; additionally incorporation by reference statement is to be included in the specification and not the face page. The statement is already present in the specification. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

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

SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/12/10

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10294989 Patent No.: 7044970

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.

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

Formatted: Indent: Left: 1.22"

Comments: the priority data requires updated status of each application as whether the applications relied on in the continuity data is pending, abandoned or has issued to a patent number.

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100709

DATE : July 12, 2010

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction on Patent No.: 7,044,970

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:

Applicants request failed to meet all the requirements according to MPEP 1481.03 II B. specifically in that a petition and fee to accept an unintentionally delayed claim for benefit was not filed with this request.

SPE: /Corrine McDermott/ **Art Unit** 3738

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: June 24, 2010
Electronic Signature for William A. Di Bianca: /William A. Di Bianca/

Docket No.: SPINE 3.0-437 CIPCIPCIPCIPCIPCON XIII
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Errico et al.

Patent No.: 7,044,970

Issued: May 16, 2006

For: ARTIFICIAL INTERVERTEBRAL DISC HAVING LIMITED ROTATION USING A CAPTURED BALL AND SOCKET JOINT WITH A SOLID BALL, A COMPRESSION LOCKING POST,AND AN INTERFERENCE BALLBEARING

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

REVISED REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.323

Dear Sir:

Enclosed herewith is a REVISED Certificate of Correction in response to the SPE Response for Certificate of Correction dated May 12, 2010 with respect to the above-identified U.S. Patent. The priority data has been updated to reflect the current status of each application listed as continuity data.

For your ease, please review the chart on page 2 in which we have underlined priority information that is missing from the face page of the patent and added a strikethrough to priority information that is incorrect and therefore should be deleted from the face page of the patent.

Application::	Continuity Type::	Parent Application::	Parent Filing Date::	Status

DO NOT ENTER: /BP/ 7/9/10

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

Date Mailed : 07/13/10

Patent No. : 7044970 B2
Patent Issued : 05/16/06
Docket No. : **F-255**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 06/24/10; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100709

DATE : July 12, 2010

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction on Patent No.: 7,044,970

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:

Applicants request failed to meet all the requirements according to MPEP 1481.03 II B. specifically in that a petition and fee to accept an unintentionally delayed claim for benefit was not filed with this request.

SPE: /Corrine McDermott/ **Art Unit** 3738

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PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Franz Amtmann	:	
Application No. 10/294,995	:	DECISION ON PETITION
Filed: 13 November, 2002	:	
Atty Docket No. PHO 98.523A	:	

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

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on 2 November, 2005, a Notice of Allowance and Fee(s) Due was mailed, setting a three (3) month shortened statutory period for reply.

On 2 February, 2006, the issue and publication fees were submitted.

As such, the application was never abandoned, and no petition to revive is necessary.

No petition fee has been paid and none is due.

The application will be referred to the Office of Publications for processing into a patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VIENNA VA 22182-6212

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FEB 27 2009

OFFICE OF PETITIONS

In re Patent of
Markki, et al.
Patent No. 7,298,743
Issued: November 20, 2007
Application No. 10/295,014
Filed: November 14, 2002
Attorney Docket No. 28212/1200271-US1/NC30620

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.59, filed January 16, 2009, requesting the Office expunge a portion of the application file.

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 1.59." Petitioner is advised that this is not a final agency decision.

Petitioner requests the removal of a declaration filed on February 19, 2003 because one of the inventors is a sworn police officer in the State of California and California Government Code 6254.21(c)(1) allows peace officers the right to demand in writing that their personal information be removed from online databases that sell or provide their information to the public.

Relief under 37 CFR 1.59(b) may be granted if certain criteria are met.

(1) The information to be expunged must not be part of the original disclosure. The original disclosure consists of elements such as the written specification, claims, and drawings. In certain circumstances, a preliminary amendment will be considered part of the original disclosure.

(2) The information to be expunged must not be material information under 37 CFR 1.56.[1]

[1] "Materiality is not limited to prior art but embraces *any* information that a reasonable examiner would be substantially likely to consider important in deciding

(3) The Office must have sufficient time to expunge the material prior to issuance of the application as a patent.
(4) The petition must state the information 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.
(5) The information must not have already been made public.
(6) Petitioner must commit to retaining the information for the period of any patent with regard to which such is submitted.
(7) Petitioner must pay the petition fee.

In addition to the requirements above, if the information to be expunged was not submitted under the provisions discussed in MPEP § 724, the Office may impose additional requirements. As stated in MPEP 724.05(II), " A request to expunge information that has not been clearly identified as information that may be later subject to such a request by marking and placement in a separate sealed envelope or container shall be treated on a case-by-case basis."

The declaration will not be expunged because it is the originally filed declaration and it is required to complete the application. Thus, the request runs afoul of (1) above.

In addition, even if the Office were to grant the request, it would not be effective since the patent has issued and copies of the patent have been distributed throughout the world. Thus, the request runs afoul of (5) above.

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

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

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

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

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whether to allow an application to issue as a patent." Bristol-Myers Squibb Co. v. Rhone-Poulenc Rorer, Inc., 326 F.3d 1226, 1234, 66 USPQ2d 1481, 1486 (Fed. Cir. 2003) (emphasis in original) (finding article which was not prior art to be material to enablement issue).

Tèlephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: David Leporini	: DECISION ON REQUEST FOR
Patent Number	: 7590860	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/295,021	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1169** 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
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HOWREY SIMON ARNOLD & WHITE LLP
301 RAVENSWOOD AVE
BOX NO 34
MENLO PARK CA 94025

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APR 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Afar, et al.	:	
Application No. 10/295,027	:	ON PETITION
Filed: November 13, 2002	:	
Attorney Docket No. 05882.0182.NPUS00	:	

This is a decision on the paper titled "PETITION FOR CORRECTION OF FILING DATE", filed on December 10, 2004 in application no. 60/543,808[1], which is being treated as a petition under 37 C.F.R. § 1.181 for a corrected filing receipt.

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

The $130 fee submitted on petition is unnecessary. Accordingly, this fee has been refunded to Deposit Account No. 08-3038, as authorized.

This application is being forwarded to Group Art Unit 1634 to await for applicants' response to the non-final Office action mailed March 22, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt

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[1] Using the other identifying information, the petition was matched up and entered into the correct application, application no. 10/295,027.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McDermott, Will & Emery
600 13th Street, NW
Washington DC 20005-3096

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APR 11 2007

OFFICE OF PETITIONS

In re Application of
Shigeki Matsunaga
Application No. 10/295,035
Filed: November 15, 2002
Attorney Docket No. 50023-186

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on March 5, 2004, and resubmitted on May 26, 2005, to withdraw the holding of abandonment.

On December 16, 2002, the Office mailed a Notice to File Missing Part of Nonprovisional Application, which set a two-month extendable period to reply. In the apparent absence of a timely reply, the application became abandoned on March 17, 2003. On February 29, 2004, the Office mailed a Notice of Abandonment.

Petitioners assert that a proper response was filed timely in the USPTO on January 16, 2003. In support of the petition, petitioner submits a copy of their "Response to Notice of Missing Parts of Application," which contained an authorization to charge the Deposit Account for the statutory basic filing fee, the claim fees, and the surcharge. Additionally, petitioners provided a copy of a date-stamped postcard receipt, acknowledging receipt of a Declaration/Power of Attorney, a Response to Missing Parts Notice, and an authorization to charge Deposit Account 50-0417 in the amount of $1,786.00 on January 16, 2006.

The Office has not located the original correspondence. Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on January 16, 2006, but was not matched with the application.

The petition under 37 CFR 1.181 is **granted** and the holding of abandonment is hereby withdrawn.

The $740.00 statutory basic filing fee, the $906.00 additional claim fees, and the $130.00 surcharge will be charged to the Deposit Account as authorized.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ONE MARITIME PLAZA – FOURTH FLOOR
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TOLEDO OH 43604

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OFFICE OF PETITIONS

In re Application of
Donovan et al.
Application No. 10/295,077
Filed: November 15, 2002
Attorney Docket No. 1-73730

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 6, 2005, to withdraw the holding of abandonment for the above-identified application.[1] The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioners.

This application was held abandoned for failure to respond timely to the nonfinal Office Action mailed on May 25, 2004, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on January 13, 2005.

In the present petition, petitioners state that they submitted a reply in the form of an amendment, a request for an extension of time for response within the third month and an authorization to charge their Deposit Account for the extension of time fee. Each of these documents contained a certificate of mailing dated November 26, 2004. Accompanying the petition are copies of an Amendment and a Request for an Extension of Time, bearing certificates of mailing dated November 26, 2004. Additionally, the record indicates that petitioners previously submitted copies of these documents to the Office on February 21, 2005.

Pursuant to 37 CFR 1.8:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding

[1] The record indicates that the Examiner mailed a Notice of Allowance and Fee(s) Due to petitioners on August 10, 2005. However, the Office had not rendered a decision this petition previously. To clarify the record, the Office of Petitions will decide the present petition on the merits.

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record and the papers submitted on petition, the response is considered timely filed on November 26, 2004. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted on November 26, 2004.

The Office finance records indicate that the Office charged a $1,020.00 extension of time fee to petitioners' Deposit Account. However, the amount due on November 26, 2004, for the three-month extension of time to reply was $980.00. Accordingly, the Office will refund the difference of $40.00 to petitioners' Deposit Account.

In view of the fact that petitioners paid the issue and publication fees on November 8, 2005, this matter is being referred to the Office of Publications.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 10-04

SUSAN M. SCHMITT
PETERS, VERNY,JONES AND SCHMITT
425 SHERMAN AVE.,
SUITE 230
PALO ALTO CA 94306

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Imran et al.	:	
Application No. 10/295,115	:	DECISION DISMISSING
Filed: 14 November, 2002	:	PETITION
Atty Docket No. 4004.10-8	:	

This is a decision on the petition filed on 9 September, 2004, 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 prior-filed Application No. 09/847,884, filed on 1 May, 2001 (issued as U.S. Patent No. 6,535,764 on 18 March, 2003).

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

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

(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 14 November, 2002, and was copending with the above-noted, prior-filed nonprovisional application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title which was filed on 1 May, 2003.

The reference to the above-noted, prior-filed nonprovisional application was not included in the manner specified in 37 CFR 1.78(a)(2)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2).

A reference to the above-noted, prior-filed application was included in an amendment to the first sentence of the specification following the title, which was filed on 1 May, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior 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 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 de Seversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to piece new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in

section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement is required. Furthermore, petitioners are advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[2]

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile to the number indicated below and to the attention of Senior Petitions Attorney Douglas I. Wood.

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should 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

---

[2] See 37 CFR 1.4(c).

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United States Patent and Trademark Office
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PALO ALTO CA 94306

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Imran et al.	:	
Application No. 10/295,115	:	DECISION DISMISSING
Filed: 14 November, 2002	:	PETITION
Atty Docket No. 4004.10-8	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 16 November, 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, 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 above-noted, 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 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 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 above-noted, prior-filed nonprovisional application, was mailed on 27 May, 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 1741 for appropriate action on the amendment filed 16 November, 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PETERS VERNY JONES & SCHMITT LLP
SUITE 230
425 SHERMAN AVENUE
PALO ALTO, CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Mir A. Imran, et al.	:	
Application No. 10/295,128	:	DECISION ON PETITION
Filed: November 14, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 4004.10-5	:	

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 the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) 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)

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment 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 renewed petition under 37 CFR §§ 1.78(a)(3) and a substitute amendment[1] deleting the incorporation by reference statement to nonprovisional application No. 09/847,885 filed May 1, 2001 are required.

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.

---

[1] *Note* 37 CFR 1.121

Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Telephone inquiries concerning this decision should be directed to Sherry Brinkley at (571) 272-3204.

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

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Susan M Schmitt
Peters Verny Jones & Schmitt LLP
Suite 230
425 Sherman Avenue
Palo Alto, CA 94306

COPY MAILED

APR 21 2005

OFFICE OF PETITIONS

In re Application of	:
Mir A. Imran, et al.	: DECISION ON PETITION
Application No. 10/295,128	: UNDER 37 CFR 1.78(a)(3)
Filed: November 14, 2002	:
Atty Docket No. 4004.10-5	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on January 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

---

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

The petition satisfies all of the above requirements.

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

This application is being forwarded to Technology Center Art Unit 3762 for consideration by the Examiner of the amendment filed January 26, 2005, including applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional application.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 18 2005

OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of :
Harumi Takedomi et al :
Application No. 10/295,152 : ON PETITION
Filed: November 14, 2002 :
Attorney Docket No. 13869.9US01 :

This is a decision on the petition, filed March 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 3, 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 3618 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : March 18, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Harumi Takedomi et al
Application No. :10/295,152
Filed :November 14, 2002

The above-identified application has been assigned Patent No. 6,868,929 and an issue date of March 22, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 22, 2005:

"All reference to Patent No. 6,868,929 to Harumi Takedomi of Japan for VIBRATION-PROOF STRUCTURE FOR METALLIC ELECTRICAL PACKAGING CASE appearing in the Official Gazette of March 22, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/29/07

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/295193 Patent No: 6857951 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: _____

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2123
Art Unit

Staple
Here
Only

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,856,951

DATED : February 15, 2005

INVENTOR(S) : Moona et al.

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

Claim 6. Should be cancelled as per Amendment with certificate of mailing of 9/8/2004.

Claim 27. Line 3 of this claim, please remove "repartitioned from" and replace with -- repartitioned form--.

Claim 28. Line 3 of this claim, please remove "repartitioned from" and replace with -- repartitioned form--.

MAILING ADDRESS OF SENDER:
Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 SW Salmon Street
Portland, Oregon 97204

PATENT NO. 6,856,951
No. of add'l copies_____
(@ .30 per page)

SEP 26 2007

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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FEB 17 2004

Paper No. 5

In re Application of
Homayoun Talieh *et al*
Application No. 10/295,197
Filed: November 15, 2002
Attorney Docket No. NT-217C2-US

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on January 7, 2004 and resubmitted on January 26, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated June 19, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. The January 26, 2004 petition has been retained as part of the earlier filed petition.

The petition is granted.

Petitioners allege that this application is not abandoned because a timely reply to the Office letter in question was in fact filed. Petitioners have supported this allegation by submitting a copy of the reply, and a copy of a filing receipt for the reply which shows that the reply was received in the Office on September 22, 2003. It is noted that the reply has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated September 17, 2003, a date within the period set for filing a reply to the June 19, 2003 Office letter. Based upon this showing, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on September 22, 2003, certificate of mailing date September 17, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Legal Department
NuTool, Inc.
1655 McCandless Drive
Milpital, CA 95035

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUTOLIV ASP, INC
Attn: Sally J. Brown ESQ
3350 Airport Rd
OGDEN UT 84405

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MAR 2 5 2008

OFFICE OF PETITIONS

In re Patent No. 6,666,476 :
Issue Date: December 23, 2003 :
Application No. 10/295,207 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. AAI-14164 :

This is a decision on the petition under 37 CFR 1.378(c), filed March 7, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 24, 2007 for failure to pay the 3.5 year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

Pursuant to petitioner's request, deposit account no. 50-0532 will be charged the $1640.00 surcharge and the $930.00 maintenance fee.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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NOV 17 2003

Office of the Director
Group 3600

Paper No. 5

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

In re application of
John A. Duran et al.
Application No. 10/295,211
Filed: November 14, 2002
For: PANEL FASTENER WITH RETAINING RING

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on October 14, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

KJD/cps 11/07/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/24/07

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/295220 Patent No: 7192758 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: _____

SPE

1652
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

POLSTER LIEDER WOODRUFF & LUCCHESI, L.C.
12412 POWERSCOURT DRIVE, SUITE 200
ST. LOUIS, MISSOURI 63131

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OCT 27 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Fukuo Hashimoto et al :
Application No. 10/295,227 :
Filed: November 15, 2002 :
Attorney Docket No. TIMK 8321US(C1)

This is a decision on the petition, filed September 30, 2004 and supplemented on October 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIS WRIGHT TREMAINE, LLP/SEATTLE
1201 THIRD AVENUE, SUITE 2200
SEATTLE WA 98101-3045

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JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Engelhart, Robert L.	:	
Application No. 10/295,233	:	DECISION ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. 83531-363	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 6, 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 final Office action mailed July 3, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 4, 2007.

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

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

The instant petition lacks item(s) (1). The Amendment submitted to the Examiner on June 6, 2008 failed to place the above-identified application in prima facie condition for allowance. A

---

[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).

proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

The Advisory Action issued by the Examiner is enclosed.

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

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

By hand: Customer 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

Enclosure: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIS WRIGHT TREMAINE, LLP/SEATTLE
1201 THIRD AVENUE, SUITE 2200
SEATTLE WA 98101-3045

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Engelhart, Robert L.	:	
Application No. 10/295,233	:	ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. 83531-363	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD PC
P O BOX 2903
MINNEAPOLIS, MN 55402-0903

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NOV 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Melvyn Rosenberg	:	
Application No. 10/295,259	:	DECISION GRANTING PETITION
Filed: November 14, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 14143.6USC1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 16, 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 19, 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 November 20, 2004. A Notice of Abandonment was mailed on April 4, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 19, 2004 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1616 for appropriate action in the normal course of business on the reply received February 16, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Welsh & Katz, Ltd.
Jon P. Christensen
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606

COPY MAILED

APR 0 7 2003

OFFICE OF PETITIONS

In re Application of:
Anthony J. Dezonno, Mark J. Power,
Kenneth Venner, Jared Bluestein,
James F. Martin, Daryl Hymel, Craig
R. Shambaugh and Laird C. Williams
Application No.: 10/295,275
Filed: November 15, 2002
Title of Invention: SYSTEM AND
METHOD FOR PREDICTING CUSTOMER
CONTACT OUTCOMES

DECISION GRANTING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 CFR 1.47(a), filed February 25, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Jared Bluestein, refuses to sign the declaration.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jared Bluestein
P.O. Box 85
Wilmot, NH 60190

In re Application of:
Anthony J. Dezonno, Mark J. Power,
Kenneth Venner, Jared Bluestein,
James F. Martin, Daryl Hymel, Craig
R. Shambaugh and Laird C. Williams
Application No.: 10/295,275
Filed: November 15, 2002
Title of Invention: SYSTEM AND
METHOD FOR PREDICTING CUSTOMER
CONTACT OUTCOMES

COPY MAILED

APR 0 7 2003

OFFICE OF PETITIONS

LETTER

Dear Mr. Bluestein:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or
1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: Welsh & Katz, Ltd.
Jon P. Christensen
22nd Floor
120 South Riverside Plaza
Chicago IL 60606

UNITED STATES 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.

NOVARTIS
CORPORATE INTELLECTUAL
PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

COPY MAILED

APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Cary et al.	:	
Application No. 10/295,283	:	LETTER REGARDING
Filed: November 15, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. B-32262A	:	

This letter is in response to the "Examiner's Reasons for Allowance and Request for PTA" filed January 12, 2007. Pursuant to applicants' duty of good faith and candor to the Office, applicants disclose that the initial determination of patent term adjustment mailed with the Notice of Allowance should be one hundred thirty (130) days not one hundred thirty-seven (137) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED.**

On December 7, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 137 days. Applicants do not state a basis for their disclosure that this determination is incorrect.

The application history has been reviewed and it has been decided that the determination of patent term adjustment is correct. It is specifically noted that the 7 additional days of patent term adjustment is associated with the mailing of the notice of allowance. The Office did not mail a notice of allowance in response to the response after non-final Office action filed July 31, 2006, until December 7, 2006, four months

and 7 days later. Pursuant to 37 CFR 1.702(a)(2), which provides that,

> the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to … Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken,

a period of adjustment of 7 days was properly entered.

In view thereof, the determination of PTA at the time of the mailing of the notice of allowance of one hundred thirty-seven (137) days is correct.

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

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield CT 06430

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Zhou, et al. :
Application No. 10/295,290 : DECISION ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. YOR920020224US1 :
For: METHOD AND APPARATUS FOR
PROTEIN STRUCTURE ANALYSIS

This is a decision on the petition under 37 CFR 1.182 filed December 8, 2003 (certificate of mailing date December 4, 2003), to change the order of inventorship.

The petition is GRANTED.

The order of inventors will be:

Ruhong Zhou
Benjamin David Silverman
Ajay K. Royyuru
Prasanna Athma

A replacement filing receipt is enclosed.

After the mailing of this decision, the application file will be forwarded to Technology Center 1600 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

SPE: P. Ryan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/20/07

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/295,292 Patent No.: 6889214

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: _____

_____

_____

_____

_____

SPE

1745
Art Unit

#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

APR 18 2003

MAILED

APR 18 2003

OFFICE OF THE DIRECTOR
TC 3600

Wood, Herron & Evans, LLP
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202

Paper No. 5

In re application of
Joseph C. Perin, Jr. et al.
Application No. 10/295,316
Filed: November 15, 2002
For: ITEM VENDING MACHINE AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (MANUFACTURE)

This is a decision on the petition under 37 C.F.R §1.102(d) filed November 15, 2002 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item I: Prospective Manufacture. The delay in treating this petition is sincerely regretted.

The petition is **DISMISSED**.

MPEP 708.02 states that a Petition to Make Special based on Prospective Manufacture 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) the possession by the prospective manufacturer of sufficiently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) or that sufficiently available capital and facilities will be made available upon grant of a patent, with the proviso that if the prospective manufacturer is an individual a corroborating statement from a responsible party is required; (B) that the prospective manufacturer will not begin or increase production unless certain that the patent will be granted; (C) that the prospective manufacturer obligates themselves to manufacture the invention in the U.S. in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and (D) 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 November 15, 2002 does not meet item 2(B). The petition does not include a statement that the prospective manufacturer will not begin or increase production unless certain that the patent will be granted.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866
(703) 605-0586 (facsimile)

KJD/tpl: 4/11/03

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

ANDREW L. REIBMAN, ESQ.
KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Perin et al.	:	
Application No. 10/295,316	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. 12406/111	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3206.

This matter is being referred to Technology Center 3600 to await a response to the Office action mailed on June 30, 2004.

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

ANDREW L. REIBMAN, ESQ.
KENYON & KENYON
ONE BROADWAY
NEW YORK NY 10004

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of
Joseph C. PERIN JR., *et al.*
Application No. 10/295,316
Filed: November 15, 2002
Attorney Docket No. **12406/111**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on December 16, 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 the publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed on June 21, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned, by operation of law, on September 22, 2005. A Notice of Abandonment was mailed on November 11, 2005.

The instant 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 of the Publication Fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue fee and the Publication Fee payments are 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 forwarded to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 4

THOMAS F. MEAGHER
KENYON & KENYON
ONE BROADWAY
NEW YORK, N.Y. 10004

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MAR 1 7 2003

OFFICE OF PETITIONS

In re Application of
Min-Hao Michael Lu
Application No. 10/295,322
Filed: November 15, 2002
Attorney Docket No. 10052/3401

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

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

JUL - 7 2004

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of	:
Malcolm C. Pike et al.	:
Serial No.: 10/295,337	: PETITION TO MAKE SPECIAL
Filed: November 15, 2002	:
Attorney Docket No.: 38931.8003	:

This is in response to applicants' petition filed November 15, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. The delay in acting on this petition is regretted.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

COPY MAILED

FEB 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Pike et al.	:	
Application No. 10/295,337	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. 38931-8003.US00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 25, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue 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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

John R. Van Amsterdam, Ph.D.
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

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NOV 0 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Benjamin, et al.	:	
Application No.10/295,345	:	DECISION GRANTING PETITION
Filed: November 25, 2002	:	
Attorney Docket No. V00189.70017.US	:	

This is a decision on the renewed petition under 37 CFR 1.182 filed October 17, 2003, to change the name of inventor "Barbara Kohn" to "Barb Ariel Cohen."

The petition is **granted**.

The name of inventor "Barbara Kohn" is changed to "Barb Ariel Cohen" in accordance with the affidavit of Barb Cohen filed October 17, 2003, and the other documentary evidence provided relative to the matter. A corrected filing receipt is enclosed.

The application file is being forwarded to Technology Center 1600 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 9, 2007

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No. 10/295,370 Patent # 7,205,455

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**.

Eva James

Certificates of Correction Branch

703-308-9390 ext. 124

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

1638
Art Unit

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/295,376	**14-Mar-03**	**PAVEL LAZAREV, ET AL.**	**NONE**

Title: AN ELECTROOPTICAL DEVICE, METHOD FOR ITS FABRICATION, AND ELECTROOPTICAL THIN CYRSTAL FILM

Art Unit	Paper Number

Correspondence Address:
Aldo Test
DORSEY & WHITNEY
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

PATENT & TRADEMARK OFFICE
MAILED

MAR 24 2003

LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

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

DORSEY & WHITNEY LLP
Four Embarcadero Center; Suite 3400
San Francisco, CA 94111-4187

In re:	LAZAREV et al	:	DECISION ON REQUEST
Serial No.:	10/295,376	:	UNDER 37 CFR 5.25
Filing date:	November 15, 2002		
Docket No:	none		

Title: AN ELECTROOPTICAL DEVICE, METHOD FOR ITS FABRICATION, AND ELECTROOPTICAL THIN CRYSTAL FILM

This is a decision on the petition filed on March 14, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(ii-iii) have not been met.

The declaration of Alla Sakharova states that the application was filed in Russia and that she did not know of the requirements of a license for filing in a foreign country. However, the specific circumstances surrounding the proscribed filing have not been fully explained to support the allegation of action through error and without deceptive intent. What is required is a showing of facts rather than mere allegation of action through error. Statements of fact should not be mere conclusionary but must include how and why the error occurred.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/295,376	**14-Mar-03**	**PAVEL LAZAREV, ET AL.**	**NONE**

Title: AN ELECTROOPTICAL DEVICE, METHOD FOR ITS FABRICATION, AND ELECTROOPTICAL THIN CYRSTAL FILM

Art Unit	Paper Number

Correspondence Address:
Aldo Test
DORSEY & WHITNEY
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

MAY 28 2000

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

PATENT & TRADEMARK OFFICE
MAILED
MAY 28 2003

LICENSING & REVIEW

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

Tianjun Hou
DORSEY & WHITNEY LLP
Four Embarcadero Center; Suite 3400
San Francisco, CA 94111-4187

In re:	LAZAREV et al	:	DECISION ON REQUEST
Serial No.:	10/295,376	:	UNDER 37 CFR 5.25
Filing date:	November 15, 2002		
Docket No:	none		

Title: AN ELECTROOPTICAL DEVICE, METHOD FOR ITS FABRICATION, AND ELECTROOPTICAL THIN CRYSTAL FILM

This is a decision on the petition filed on May 14, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(ii-iii) have still not been met.

The declaration of Alla Sakharova states in item 3 of the declaration that a Russian patent agent filed the application in Russia, being unaware of US license requirements. However, this allegation is not supported by fact. What is required is a statement or declaration by one who actually had knowledge and filed the application abroad, in the instant case, the Russian patent agent. Further, in item 5 of the instant declaration, Declarant avers that "some time expired between commencement of the effort to investigate and obtain foreign filing licenses and the date on which the petitions were filed." This is not indicia of diligence.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

#13

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/295,376	3/14/03	PAVEL LAZAREV, ET AL.	NONE

Title: **AN ELECTROOPTICAL DEVICE, METHOD FOR ITS FABRICATION, AND ELECTROOPTICAL THIN CYRSTAL FILM**

Art Unit	Paper Number

Correspondence Address:
Aldo Test
DORSEY & WHITNEY
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

PATENT & TRADEMARK OFFICE
MAILED
MAR 26 2004
LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 532,206
Grant Date: 26-Mar-04

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved
for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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

Tianjun Hou
DORSEY & WHITNEY LLP
Four Embarcadero Center, Suite 3400
San Francisco, CA 94111-4187

In re:	Lazarev et al	:	DECISION ON REQUEST
Serial No.:	10/295,376	:	UNDER 37 CFR 5.25
Filing date:	November 15, 2002		
Docket No:	n/a		

Title: ELECTROOPTICAL DEVICE, METHOD OF ITS MANUFACTURING AND ANISOTROPIC THIN CRYSTAL FILM

This is a decision on the petition filed on September 11, 2003 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 filings 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 a secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, 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**
RUSSIA	November 19, 2001

Ian J. Lobo
Patent Examiner
(703) 306-4161

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/295,389	11/15/2002	King-Yuan Lin	P2020	1645

30143 7590 09/16/2004

TODD N. HATHAWAY
119 N. COMMERCIAL ST. #620
BELLINGHAM, WA 98225

EXAMINER
COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 09/16/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 16 2004

In re Application of	:	
King-Yuan Lin	:	
Serial Number : 10/295,389	:	WITHDRAWAL
Filed : November 15, 2002	:	FROM
For : HAND-HELD MIXER	:	ISSUE

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

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

Todd N. Hathaway
119 N. Commercial St. #620
Bellingham, WA 98225

cc: Allowed Files, Pk3-910

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FLIESLER MEYER LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

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DEC 12 2006
OFFICE OF PETITIONS

In re Patent No. 7,062,712 B2	:	DECISION ON
Schneider, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: June 13, 2006	:	AND NOTICE OF INTENT
Application No. 10/295,396	:	TO ISSUE
Filed: November 15, 2002	:	CERTIFICATE OF
Attorney Docket No. FXPL-1044US1	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. 1.705(b) OF THE PATENT TERM ADJUSTMENT", filed August 11, 2006. Patentees request that the patent term adjustment indicated on the patent be corrected from zero (0) days to one hundred seven (107) 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 **one hundred seven (107)** days.

On June 13, 2006, the above-identified application matured into U.S. Patent No. 7,062,712. The instant request for reconsideration filed August 11, 2006 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 state that the patent is not subject to a terminal disclaimer.

A review of the application filed reveals that applicants were assessed delay of one hundred twenty (120) days for the submission of a "STATEMENT OF THE SUBSTANCE OF INTERVIEW" on February 13, 2006. A 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 THE 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 one hundred seven (107) days (210 days of PTO delay and 103) 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 **one hundred seven (107)** 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
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: draft certificate of correction

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,062,712 B2

DATED : June 13, 2006

INVENTOR(S) : Schneider, 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 (0) days

Delete the phrase "by 0 days" and insert – by 107 days—

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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AUG 08 2006

Director's Office
Group 3700

In re Application of
Dean L. Rhoades
Appl. No. 10/295,397
Filed: November 14, 2002
For: ABRASIVE SOAP AND HANDLING MECHANISM

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on Applicant's Petition under 37 CFR 1.181 filed on May 30, 2006 to request a review of the final rejection sent on August 11, 2005.

The petition is dismissed.

The above application was filed on November 14, 2002, and a final rejection was sent on August 11, 2005. Examiner first objected to the abstract pursuant to MPEP § 608.01(b) on grounds that the phrase "is disclosed" should not have been present. Examiner then objected to the specification under 37 CFR 1.75(d)(1) on grounds that the claimed base plate, lower plate and shaft lacked an antecedent basis in the specification. In his response filed September 28, 2005, Petitioner amended the abstract and set forth several arguments regarding the specification objections. Examiner then sent an advisory action on November 18, 2005, in which he solely responded to Petitioner's contentions that were unrelated to the specification and abstract, i.e. responded to arguments regarding the rejections only. Accordingly, Petitioner filed a notice of appeal on December 15, 2005 and a subsequent brief on February 16, 2006. After Examiner sent his answer on March 29, 2006 informing Petitioner that the subject matter ignored in the advisory action was not appealable but petitionable, Petitioner filed this petition on May 30, 2006.

With regards to the abstract, Petitioner asserts that he overcame Examiner's objection by deleting the phrase "is disclosed" pursuant to Examiner's recommendation. In reference to the specification, Petitioner contends that he provided proper antecedent basis for the terms in question. Specifically, Petitioner asserts that based on *The American Heritage Dictionary of English Language* (4th Ed. 2000), as well as the knowledge of an ordinary person skilled in the art, the claimed base plate, lower plate and lower disk properly reference the base disk, lower disk and central screw, respectively, disclosed in the specification. Therefore, Petitioner contends that the objection to the specification should be withdrawn.

Although Petitioner is petitioning either the final rejection, mailed August 11, 2005, or the advisory action, mailed November 18, 2005 with respect to objections in the abstract and specification, the petition was filed on May 30, 2006 and is, therefore, considered untimely as it has been filed 2 months from either date pursuant to 37 CFR 1.181(f). Moreover, Petition would appear to be moot in view of Examiner's response to the reply brief, mailed June 14, 2006, in which Examiner has withdrawn all of the noted objections based on Applicant's remarks filed September 28, 2005.

While Petitioner may argue that the petition is timely in that it is within 2 months of the mailed Examiner's answer, Petitioner should have known that the objected to subject matter is not appealable:

> The practical difference between a rejection and an objection is that a rejection, involving the merits of the claim, is subject to review by the Board of Patent Appeals and Interferences, while an objection, if persisted, may be reviewed only by way of petition to the Director of the USPTO. MPEP § 706.01.

In view of this, the objected to subject matter should not have been addressed in arguments made in the brief other than for background with respect to prosecution history regarding objections.

In summary, petition is dismissed as untimely and moot.

PETITION DISMISSED.

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

Karen M. Young

Karen M. Young
Director
Technology Center 3700

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Group 3700

John H. Allie
Woodard, Emhardt, Moriarty,
McNett & Henry LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Serial No. 10/295,402

In re Application of: James Carl Loebig et al Serial No. 10/295,402 Filed: November 15, 2002 For: GAS TURBINE ENGINE POWER BOOST USING MICRO DROPLET LIQUID INJECTION	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Receipt is acknowledged of Applicants' Petition to withdraw the holding of abandonment filed 7/13/04 (and entered as Paper No. 14).

BACKGROUND

On June 13, 2003, a Final Office Action was mailed to Petitioners (Paper no. 9).

On December 15, 2003, Petitioners requested for a three-months extension of time.

On December 15, 2003, Petitioners filed a Notice of Appeal.

On June 28, 2004, a Notice of Abandonment was mailed to Petitioners based on the reason that a notice of appeal was filed on 12/15/04 concurrent with a 3-month extension of time and the period for extension has expired.

On July 13, 2004, Petitioners requested for withdrawal of Notice of Abandonment.

On July 13, 2004, Petitioners requested a five-month Extension of Time under 37 C.F.R. 1.136(a).

On July 13, 2004, Petitioners filed an Appeal Brief.

DISCUSSION

Petitioners have petitioned to withdraw the holding of abandonment, which does not require a petition fee.

Since the notice of Appeal was filed along with the three-month extension, the Notice of Abandonment mailed 6/28/04 is in error and is herby vacated. The holding of abandonment is withdrawn.

The filing of Appeal Brief on 7/13/04 is timely because the 5-months extension of time available under 37 C.F.R. 1.136(a) for filling the appeal brief.

DECISION

The petition is GRANTED.

The file will be forwarded to the examiner for processing the Appeal Brief.

Richard A. Bertsch
Group Director
Technology Center 3700
Phone: 703-308-0975

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Steven J. Sarussi
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago IL 60606

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Van Zandt, et al.	:	
Application No. 10/295,414	:	DECISION ON PETITION
Filed: November 14, 2002	:	
Attorney Docket No. MBHB 01-296-C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 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, May 5, 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
August 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 an amendment, (2) the petition fee of $750.00, and (3) an adequate statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1625 for appropriate action by the Examiner in the normal course of business on the reply received

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JUL 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Renee Jeanne Kelly et al	:	
Application No. 10/295,455	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. FA0969USNA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 11, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 12, 2007.

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

This matter is being referred to Technology Center AU 1774 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

DEC - 1 2004

In re Application of	:	
Richard C. Swanson	:	
Serial No. 10/295,464	:	DECISION ON PETITION
Filed: November 15, 2002	:	TO WITHDRAW AS ATTORNEY
For: HAND-HELD ROTARY HEDGE	:	
TRIMMER	:	

By papers filed on July 6, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Richard C. Swanson
5 Colony Drive
Orchard Park, NY 14127

E. Rollins-Cross, Director
Technology Center 3700

George L. Snyder, Jr.
Hodgson Russ LLP
One M&T Plaza, Suite 2000
Buffalo, NY 14203-2391

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JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS TX 75202-3797

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OFFICE OF PETITIONS

In re Application of	:	
Hu et al.	:	
Application No. 10/295484	:	
Filing or 371(c) Date: 11/15/2002	:	
Attorney Docket Number:	:	
UNTD-0034 122302.75	:	ON PETITION

This is a decision on the "Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action Under 37 CFR 1.181(a)," filed September 10, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed February 20, 2007. The Office communication set a non-extendable two (2) month period for reply. No response having been received, the application became abandoned on April 2, 2007. A Notice of Abandonment was mailed May 22, 2007.

With the instant petition, Applicant has demonstrated non-receipt of the Office communication by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to the Publishing Division for re-mailing of the Office communication and re-setting the period for response. A copy of the Notice is also enclosed.

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

Derek L. Woods
Attorney
Office of Petitions

Enclosure: February 20, 2007 Office communication

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/295,484	11/15/2002	Zhibing Hu	2028002-7030770001	1042

7590 02/20/2007

Daniel S. Hodgins
Jackson Walker L.L.P.
Suite 2100
112 E. Pecan
San Antonio, TX 78205

EXAMINER
HU, HENRY S

ART UNIT	PAPER NUMBER
1713	

MAIL DATE	DELIVERY MODE
02/20/2007	PAPER

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Serial No. : 10/295484
Applicant : Hu et al.
Filing Date : 11/15/02
Date Mailed : 2/21/07

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 60 days from the mail date of this Notice within which to correct the informalities indicated below. If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to reply will result in the application being ABANDONED. **This period for reply is NOT extendable under 37 CFR 1.136(a).**

See attachment.

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee,Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

L. Aetel

Your name
Office of Patent Publication
Phone: 703-308-9250, ext. 143

Application No. 10/255484 **Drawings filed** 11/15/02

IDENTIFICATION OF DRAWING DEFICIENCIES

- ☐ There is a hole or the image thereof within the illustration. FIG(s)_____
- ☐ The character of the lines, numbers and letters is poor. FIG(s) _____
- ☐ The illustration is penetrated or traversed by a solid or broken line that is not intended to be part of the drawing, such as a dark line caused by a flaw in the copying process. FIG(s)_____
- ☐ An ink stamp or an image obscures part of the illustration. FIG(s)_____
- ☐ The drawing is marred by black smudges, obliterations, or fax/copier marks. FIG(s)_____
- ☒ Figure numbers are duplicated or missing. FIG(s). 10B
- ☐ Numbers, letters, or reference characters in the drawing have been crossed out by hand or are illegibly handwritten. FIG(s)_____
- ☐ The drawing's background shows that the original drawing was made on graph paper or other paper with a pattern or decoration. FIG(s)_____
- ☐ The FIG. number label is placed in a location that causes the drawing to be read upside down. FIG(s)_____
- ☐ Data, a reference number, or part of the drawing is truncated or missing. FIG(s)_____
- ☐ The drawing is continued onto a second page (or more) without proper labeling under 37 CFR 1.81(u)(1). FIG(s)_____
- ☐ The drawing and/or the FIG. label contain(s) foreign language. FIG(s)_____
- ☐ Color drawings are present in this application but the following CFR 1.84 (a) requirements have not been met*:
  - ☐ Petition filed
  - ☐ Petition fee
  - ☐ 3 sets of color drawings
  - ☐ Color drawing paragraph

*If color drawings are not elected, then applicant **must respond** so stating. Also, references to color drawings in the specification, if any, must be amended.

COMMENTS:

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JOHN C. SMITH, ESQ.
2499 GLADES ROAD
SUITE 113
BOCA RATON, FL 33431

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OFFICE OF PETITIONS

In re Application of :
Henry Pearl, et al. :
Application No. 10/295,487 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No.: P02046602 :

This is a decision on the petition, filed June 5, 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 April 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3739 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Washington, D.C. 20231

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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APR 28 1998

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Sher, Siek, Vo, Heel, Wong and Zheng
Application No. 08/916,994
Filed: August 21, 1997
For: Method and Voltage Generating Circuit for Packaged Part Testing of Semiconductor Integrating Circuits

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 19, 1998.

The petition is granted.

Petitioner has established that joint inventor Zheng was presented with a copy of the application papers, but that he has failed to respond to a request that he execute the oath or declaration for the patent application. Mr. Zheng's failure to respond has been found to be a refusal to join in the filing of the above-identified application.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703)306-3159.

Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of th Deputy Assistant Commissioner
for Patent Policy and Projects

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060605

DATE : June 5, 2006

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 6,778,138

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. ~~305-8201~~

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

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

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The patentees request for a corrected patent as a more appropriate form of correction, as opposed to a Certificate of Correction, in light of the magnitude of the error is accepted.

Thomas Tarcza

SPE: Thomas Tarcza **Art Unit** 3662

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEAM - SILICONES - 60SI
IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201-3697

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SEP 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Kilgour, et al. :
Application No. 10/295,563 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. US128791-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 Notice to File Missing Parts of Application (Notice) mailed February 11, 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 April 12, 2003. A Notice of Abandonment was mailed on February 9, 2004.

Please note, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03.

Furthermore, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

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

cc.
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

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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Demont & Breyer, LLC
100 Commons Way, Suite 250
Holmdel, NJ 0773

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DEC 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Rajan Nair et al.	:	
Application No. 10/295,572	:	DECISION ON PETITION
Filed: November 15, 2002	:	TO WITHDRAW
Attorney Docket No. 487-612us	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 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 Jason Paul DeMont on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed April 2, 2007.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rajan Nair**
56 Eastwood Blvd.
Manalapan, NJ 07726

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
10/295,572	11/15/2002	Rajan Nair	487-612us

CONFIRMATION NO. 2470

POWER OF ATTORNEY NOTICE

22897
DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL, NJ 07733

OC000000027336736

Date Mailed: 12/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/17/2007.

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

/tswilliams/

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 01-05

ROBERT A. DUNN

DINNIN & DUNN, P.C.
2701 CAMBRIDGE COURT
SUITE 500
AUBURN HILLS MI 48326

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert Waldron	:	
Application No. 10/295,578	:	ON PETITION
Filed: 14 November, 2002	:	
Attorney Docket No. 2307-00001	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on 11 November, 2004, which is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application was held abandoned on 16 February, 2004, for failure to timely submit a response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 15 January, 2004, 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 27 July, 2004.

Petitioner asserts that the Notice mailed on 15 January, 2004, was never received. Petitioner further asserts that a change of correspondence address was filed prior to the mailing of the Notice mailed on 15 January, 2004, and that due to Office error, the Notice mailed on 15 January, 2004, was not sent to petitioner's correspondence address.

A review of the official file reveals that a change of correspondence address was filed on 7 January, 2004, and that the Notice mailed on 15 January, 2004, was in fact sent to the previous correspondence address. Apparently, the change of

correspondence address was not entered until after the Notice was mailed on 15 January, 2004.

Based on the evidence contained in the file and presented by petitioner, it is concluded that the Office action mailed on 15 January, 2004, was not sent to the correct address due to Office error.

The correspondence address has now been updated in Office records.

The holding of abandonment is hereby withdrawn. In view of the above, the petition fee of $55.00 is unnecessary. The petition fee will be credited to counsel's deposit account, No. 04-1131 as authorized on the transmittal letter filed with the original application papers.

The application file will be referred to Technology Center 3673 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

RECEIVED
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OCT 0 5 2004

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Aldoretta et al.
Serial No.:	10/295,583
Filing Date:	11/15/2002
Examiner:	to be assigned
Art Unit:	2681
Title:	**Solar Panet Unit**

Approved 7/19/05
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

REQUEST FOR WITHDRAWAL AS ATTORNEY

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The undersigned attorney has received the enclosed letter from the Assignee of the above-referenced patent application instructing the immediate transfer of responsibility for the above-referenced patent application to Douglas D. Salyers, Esq., Ryan Schneider, Esq., and other attorneys of Troutman Sanders LLP. Since the undersigned attorney and the firm of Thomas, Kayden, Horstemeyer & Risley, LLP are no longer authorized to act on behalf of the Applicant, the undersigned hereby petitions to withdraw as attorneys in this application.

Pursuant to 37 CFR §§1.36 and 10.40, the attorney of record listed below, and the entire firm of Thomas, Kayden, Horstemeyer & Risley, LLP (including all practitioners at USPTO Customer No. 24504), and all individual attorneys of that firm listed on the originally-filed declaration, on whose behalf the undersigned attorney has signed this request and on whose behalf the undersigned attorney is authorized to sign this request, respectfully requests permission to withdraw as the attorneys of record for the above-referenced patent application, per the request of the current Assignee.

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

Richard Egan
1101 S. Capital of Texas Highway
Building C, Suite C200
Austin, TX 78746

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JUN 14 2010

OFFICE OF PETITIONS

In re Patent No. 6,886,089 :
Issue Date: April 26, 2005 :
Application No. 10/295,585 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. SILA :

This is a decision on the petition under 37 CFR 1.378(c), filed March 23, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 26, 2009 for failure to pay the 3.5 year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 practitioner 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 practitioner 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 practitioner, 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.

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

The patent file is being forwarded to Files Repository.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

THE LAW OFFICES OF MIKIO ISHIMARU
333 W. EL CAMINO REAL, SUITE 330
SUNNYVALE, CA 94087

In re Patent No. 6,928,201	:	
Issue Date: August 9, 2005	:	
Application No. 10/295,587	:	NOTICE
Filed: November 15, 2002	:	
Patentee(s): Ke-Cai Zeng	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed September 1, 2006. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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APR 27 2009
OFFICE OF PETITIONS

In re Application of	:	
SURESH, Nallan C. et al.	:	
Application No. 10/295,589	:	DECISION ON PETITION
Filed: November 15, 2002	:	TO WITHDRAW
Attorney Docket No. **35006-584001US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 26, 2008.

The request is not approved because it is moot.

A review of the file record indicates that the power of attorney to GLENN PATENT GROUP has been revoked by the assignee of the patent application on March 11, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C**
ONE FINANCIAL CENTER
BOSTON MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL Paper No. 8

JUL 3 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DEMONT & BREYER, LLC
SUITE 250
100 COMMONS WAY
HOLMDEL NJ 07733

In re Application of:
Brockmann et al.
Application No. 10/295,596
Filed: November 15, 2002
For: TRANSMISSION PROTECTION FOR COMMUNICATIONS NETWORKS HAVING STATIONS OPERATING WITH DIFFERENT MODULATION FORMATS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 24, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JAN 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Sharad Sambhwani et al.	:	
Application No. 10/295,632	:	DECISION ON PETITION
Filed: November 14, 2002	:	TO WITHDRAW
Attorney Docket No. 046301-051100	:	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 14, 2007.

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

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on August 9, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nixon Peabody, LLP**
401 9th Street, NW
Suite 900
Washington DC 20004-2128

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

JUDY JARECKI-BLACK; PH.D., J.D.
3239 SATELLITE BLVD. 3RD FLOOR
DULUTH GA 30096

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MAY 2 0 2003
OFFICE OF PETITIONS

In re Application of	:
Johnston, Luke, Pruitt, Lust,	:
McHenry, and Phillipi	:
Application No. 10/295,635	: DECISION REFUSING STATUS
Filed: 14 November, 2002	: UNDER 37 CFR 1.47(a)
Atty Docket No. MER 001	:

This is in response to the petition filed under 37 CFR 1.47(a) on 23 April, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 14 November, 2002, without an executed oath or declaration. Accordingly, on 31 December, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing. In response, on 25 March, 2003, petitioners filed a declaration naming Joseph H. Johnston, Jr., Roger Luke, Robert Pruitt, Eric Lust, David C. McHenry, and Charles O. Phillipi as joint inventors and signed by all inventors except joint inventor McHenry, and the late-filing surcharge.

Accordingly, on 16 April, 2003, Initial Patent Examination Division mailed a Notice of Incomplete Reply (Nonprovisional) requiring the signature of joint inventor McHenry on the declaration. In response, the present petition was filed on 23 April, 2003.

Petitioners state that joint inventor McHenry refuses to sign the declaration.

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

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

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

(3) the petition fee;

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

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

The petition lacks item (1). In regards to item (1), petitioners have not provided proof that McHenry was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

---

[1] MPEP 409.03(d).

Petitioners will be charged the petition fee of $130.00 plus $410.00 for a two (2) month extension of the time for reply set in the Notice mailed on 31 December, 2002. The $110.00 one (1) month extension of time filed on 25 March, 2003, will be credited towards the two (2) month extension fee of $410.00. Counsel's deposit account, No. 50-2354, will therefore be charged a total of $430.00.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

JUDY JARECKI-BLACK; PH.D., J.D.
3239 SATELLITE BLVD. 3RD FLOOR
DULUTH GA 30096

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JUL 01 2003
OFFICE OF PETITIONS

In re Application of	:
Johnston, Luke, Pruitt, Lust,	: DECISION NOTING JOINDER OF
McHenry, and Phillipi	: INVENTOR AND PETITION UNDER
Application No. 10/295,635	: UNDER 37 CFR 1.47(a) MOOT
Filed: 14 November, 2002	:
Atty Docket No. MER 001	:

Papers filed on 20 June, 2002, in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on 20 May, 2003, included a Declaration signed by the previously non-signing inventor, David C. McHenry in compliance with 37 CFR 1.63.

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

GREGG C. BENSON
PFIZER INC.
PATENT DEPARTMENT, MS 4159
EASTERN POINT ROAD
GROTON, CT 06340

COPY MAILED

NOV 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Bryan P. deBlois :
Application No. 10/295,667 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. PC11855A :

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

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. 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 17, 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 18, 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 (1) above.

As to item (1), a reply to the office action mailed on December 17, 2003,[1] has not been submitted. A proper reply to the office action must be submitted with the petition to revive 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 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

The power of attorney, filed October 1, 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.

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.

Pursuant to petitioner's authorization, Deposit Account No. 13-0235 was charged $1,370.00 for the petition to revive an unintentionally abandoned application.

---

[1] A copy of the non-final Office action is enclosed herewith. Any renewed petition should be accompanied by a proper reply to the non-final Office action.

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

Attachment: Non-final Office action

cc: McCORMICK PAULDING & HUBER
CITYPLACE II, 185 ASYLUM STREET
HARTFORD, CT 06103-3402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 2 1 2004

MESCHKOW & GRESHAM, P.L.C.
5727 North Seventh Street
Suite 409
Phoenix, AR 85014

In re Application of	:	
Sylvester A. Pitzen et al	:	
Serial No.: 10/295,680	:	DECISION ON PETITION
Filed: November 15, 2002	:	
For: Apparatus For the Electrical Stimulation:		
Of Human Tissue	:	

This is in response to applicants' petition filed September 29, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. 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

John E. Kittle
Director,
Technology Center 3700/2900

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

MILLIKEN & COMPANY
P. O. BOX 1927
SPARTANBURG SC 29304

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FEB 20 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Brian G. Morin et al.
Application No. 10/295,697
Filed: November 17, 2002
Attorney Docket Number: 5517

This is a decision on the petition under 37 CFR 1.137(b),[1] filed February 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 18, 2003, for failure to timely reply to the Notice to File Missing Parts mailed on December 17, 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 January 28, 2004.

Receipt of the substitute oath or declaration and surcharge for its late filing 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 (703) 305-4497.

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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ROBERT M. SCHWARTZ, P.A.
P.O. BOX 221470
HOLLYWOOD, FL 33022

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OFFICE OF PETITIONS

In re Application of Canamero et al. :
Application No. 10/295,701 :
Filing Date: November 15, 2002 :
Attorney Docket No. 43104-0019 :

Decision on Petition

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

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed April 4, 2005. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned as of midnight on July 4, 2005. A Notice of Abandonment was mailed on November 25, 2005.

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.

Laurence Greenberg signed the instant petition. Greenberg was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears that Greenberg was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Greenberg that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.

Technology Center Art Unit 1771 will be informed of the instant decision and the application will be further reviewed by the examiner in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. 8

Marc A. Sockol
SQUIRE, SANDERS & DEMPSEY L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043

In re Application of:	)	
Sean Quinlan	)	
Application No. 10/295,702	)	**DECISION ON REQUEST FOR**
Filed: November 15, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHODS FOR ASYNCHRONOUS SYNCHRONIZATION	)	

This is a decision on the Request To Withdraw from Representation filed December 4, 2003.

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

The request filed December 4, 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: Jinntung Su
MANATT, PHELPS & PHILLIPS LLP
1001 Page Mill Road, Building 2
Palo Alto, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

JINNTUNG SU
MANATT, PHELPS & PHILLIPS LLP
1001 PAGE MILL ROAD
BUILDING 2
PALO ALTO CA 94304

In re Application of	:	
QUINLAN, Sean et al.	:	
Application No. 10/295,702	:	DECISION ON PETITION
Filed: November 15, 2002	:	TO WITHDRAW
Attorney Docket No. **43630.00079**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed February 08, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that MANATT PHELPS AND PHILLIPS does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SEAN QUINLAN**
155 HAIGHT STREET, #211
SAN FRANCISCO, CA 94102

cc: **MANATT PHELPS AND PHILLIPS**
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

JUN 04 2007

In re Application of:
WEBLER, WILLIAM E. et al
Serial No. 10/295,714
Filed: Nov. 15, 2002
Docket: 005618.P3635
Title:
APPARATUSES AND METHODS FOR HEART VALVE REPAIR

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petitions filed Dec. 26, 2006 under 37 CFR 1.181 requesting supervisory review of the election of species requirements mailed on Jun. 30, 2005, Nov. 3, 2005 and Feb. 17, 2006. In the petition, petitioner requests rejoinder of claims 4, 11, 16-18, 20-21, 23-24 and 32-39. The petition is being considered under 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **Dismissed as moot**.

The examiner was instructed to construe the petition as a request for reconsideration. In finding petitioner's points of argument persuasive, the requested relief is granted. In view of the examiner's action, decision on the petition is moot and is dismissed.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young
for Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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J. NICHOLAS GROSS, ATTORNEY
2030 ADDISON ST.
SUITE 610
BERKELEY, CA 94704

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In re Application of	:	
Water LUR et al.	:	
Application No. 10/295,719	:	DECISION ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. UMC 2001-251B	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 27, 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-compliant notice mailed, June 07, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 08, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election/amendment (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-compliant notice of June 07, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 2814 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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JENKINS, WILSON, TAYLOR & HUNT
3100 TOWER BLVD
SUITE 1200
DURHAM NC 27707

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
James Tjin-Tek Chang et al	:
Application No. 10/295,725	:
Filed: November 15, 2002	:
Attorney Docket No. 1322/111	:

This is a decision on the petition, filed May 12, 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 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Robert J. Rocchetti	: DECISION ON REQUEST FOR
Patent Number	: 7617273	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/295,728	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/28/2007

TO SPE OF : ART UNIT 1700 (1732)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,932,929

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

Please complete this form and return with file ***(PFW)**, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to add references as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

1449 provided by applicant does not belong to the '929 patent - References were not considered by the examiner in the '929 patent

Christina Johnson

SPE

1732

Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Date : 6/28/2007
Patent No. : 6,932,929 B2
Inventor(s) : Kraukramer et al.
Issue Date : August 23, 2005
Title : **METHOD OF FORMING COMPOSITE ABSORBENT MEMBERS**
Doc./File No. : KCX-488-CIP (16863.1)

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in your request, the 1449 provided by the applicant does not belong to the '929 patent, therefore, the references provided for a certificate of correction were not considered by the examiner. The references requested to be considered, belongs to US Pat. No. 7,069,598/SN 10/444,481, which have already been considered in that patent. No correction is in order here.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 ext.#122
Cecelia B. Newman, *Supervisor* (703) 308-9390 ext. #101
Decisions & Certificates of Correction Branch

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

ecw

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OFFICE OF PETITIONS

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of :
Nicholas P. Van Brunt et al :
Application No. 10/295,782 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. 7175-74174 :

This is a decision on the petition, filed December 23, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The examiner of Technology Center AU 3764 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : December 23, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Nicholas P. Van Brunt et al
Application No. :10/295,782
Filed :November 15, 2002

The above-identified application has been assigned Patent No. 6,979,301 and an issue date of December 27, 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 December 27, 2005:

"All reference to Patent No. 6,979,301 to Nicholas P. Van Brunt et al of Minnesota for OSCILLATORY CHEST WALL COMPRESSION DEVICE WITH IMPROVED AIR PULSE GENERATOR WITH IMPROVED USER INTERFACE appearing in the Official Gazette of December 27, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 4

THOMAS F. MEAGHER
KENYON & KENYON
ONE BROADWAY
NEW YORK, N.Y. 10004

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MAR 1 7 2003

OFFICE OF PETITIONS

In re Application of
Raymond Kwong et al
Application No. 10/295,808
Filed: November 15, 2002
Attorney Docket No. 10052/3501

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

UNITED STATES DEPARTMENT OF COMMERCE
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Hyun-Jun Jung	: DECISION ON REQUEST FOR
Patent Number	: 7604206	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/295,831	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/14/07

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/295882 : 6822262**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Kenneth Parker 2815

SPE **Art Unit**

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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MAR 17 2003

Technology Center 2100

Paper No. 7

James E. Ledbetter
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
1615 L Street, NW
Suite 850
Washington, D.C. 20036

In re Application of: G.E.V. Elbwart et al.	)	
Application No. 10/295,899	)	
Attorney Docket No. L7725.02109	)	**DECISION ON PETITION TO**
Filed: November 18, 2002	)	**MAKE SPECIAL UNDER 37 C.F.R.**
For: A METHOD FOR MODIFYING A BIT	)	**§1.102 and M.P.E.P. §708.02(VIII)**
SEQUENCE IN AN ARQ	)	
RETRANSMISSION, RECEIVER AND	)	
TRANSMITTER THEREFOR	)	

This is a decision on the petition filed February 19, 2003, which is being treated as a petition under 37 CFR §1.102(d), requesting to make special of the above-identified application in view of M.P.E.P. §708.02(VIII): Accelerated Examination.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

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By 22 on 3/21/03

(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.

Petitioners' submissions meet all the criteria set out above, accordingly, the Petition is GRANTED.

The application file is being forwarded to the Examiner of record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-9750

TQD

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE-RESTON TOWN CENTER
RESTON VA 20190-5061

COPY MAILED

SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
David A. Arias :
Application No. 10/295,906 :
Filed: November 18, 2002 :
Attorney Docket No. GRAY010/01US :

ON PETITION

This is a decision on the petition, filed September 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 3617 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : September 17, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/295,906**

Applicant(s) : David A. Arias
Application No. : 10/295,906
Filed : November 18, 2002

The above-identified application has been assigned Patent No. 6,793,550 and an issue date of September 21, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 21, 2004:

"All reference to Patent No. 6,793,550 to David A. Arias of Virginia for COLLAPSIBLE FLOTATION DEVICE appearing in the Official Gazette of September 21, 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, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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JJGJR.: 01-06

Paper No: __

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COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE/
RESTON TOWN CENTER
RESTON VA 20190-5061

In re Application of
Arias :
Application No. 10/295,906 :
Filing Date: 18 NOVEMBER, 2002
Attorney Docket No. GRAY010/01US :

This is a decision on the renewed petition filed on 19 October, 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**.

BACKGROUND

The record reflects that:

- on 16 September, 2004, Petitioner sought and was granted on 17 September, 2004, withdrawal from issue after payment of the Issue Fee;

- thereafter, Petitioner failed to reply timely and properly to the Notice of Allowance mailed on 26 April, 2005, with reply due on or before 26 July, 2005, under a non-extendable statutory deadline;

- the instant application went abandoned after midnight 26 July, 2005;
- it appears that the Office did not mail a Notice of Abandonment before the instant petition was filed;
- on 19 October, 2005, Petitioner filed the instant petition (with fee), made the statement of unintentional delay and paid the balance due (differential) on the Issue Fee.

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.

---

[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.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement of unintentional delay, a reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

CONCLUSION

The petition under 37 C.F.R. §1.137(a) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent 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] 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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Paper No. None

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
Suite 400
1050 Connecticut Avenue, N.W.
Washington DC 20036-5339

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OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of Yasuhide Iwamoto et al. Application No. 10/295,910 Patent No. 6,919,778 Filed: November 18, 2002 Issue Date: July 19, 2005 Attorney Docket Number: 025720-00001 Title: DUPLEXER WITH AN IMPEDANCE MATCHING CIRCUIT AND AN ELECTRONIC DEVICE USING THE SAME	DECISION ON PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the petition filed October 5, 2005 under 37 C.F.R. §1.183, which is properly treated as a petition under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that an assignee was inadvertently omitted from form PTOL-85B, and requests that a Certificate of Correction be issued identifying this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the Second assignee's name as "Fujitsu Limited, Kanawaga (JP)."

37 CFR 3.81(b), effective June 25, 2004, reads:

(b) 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

1 See Official Gazette, June 22, 2004.

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.

Both Petitioner's evidence and Office records show that the assignment of the above-identified application to this assignee was submitted for recording in the Office on August 18, 2005 (Reel/Frame 016418 / 0133), and this was not prior to the issuance of the present patent on July 19, 2005.

As such, Petitioner cannot meet the requirements of 37 C.F.R. §3.81(b).

Hence, the petition is **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 3.81(B)". 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. Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300 - please note this is a central facsimile number.

UNITED STATES 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

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
Suite 400
1050 Connecticut Avenue, N.W.
Washington DC 20036-5339

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OFFICE OF PETITIONS

In re Application of Yasuhide Iwamoto et al. Application No. 10/295,910 Patent No. 6,919,778 Filed: November 18, 2002 Issue Date: July 19, 2005 Attorney Docket Number: 025720-00001 Title: DUPLEXER WITH AN IMPEDANCE MATCHING CIRCUIT AND AN ELECTRONIC DEVICE USING THE SAME	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the renewed petition filed April 7, 2006[1], under 37 C.F.R. §3.81(b)[2], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The original petition was submitted on October 5, 2005. It was set forth that an assignee was inadvertently omitted from form PTOL-85B, and requests that a Certificate of Correction be issued identifying this assignee. Petitioner submits a "Certificate of

1 It is noted that decision which dismissed the original petition set a two-month period for response, and was mailed on October 26, 2005. Therefore, a response was due on December 26, 2005. The renewed petition was received via facsimile transmission on April 7, 2006, along with a request for a two-month extension of time. As such, a four-month extension of time was required. The difference has been charged to Petitioner Deposit Account, as authorized in the renewed petition.

2 See Official Gazette, June 22, 2004.

Correction" for this purpose, which lists the second assignee's name as "Fujitsu Limited, Kanawaga (JP)."

37 CFR 3.81(b), effective June 25, 2004, reads:

(b) 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.

Both Petitioner's evidence and Office records showed that the assignment of the above-identified application to this assignee was submitted for recording in the Office on August 18, 2005 (Reel/Frame 016418 / 0133), and this was not prior to the issuance of the present patent on July 19, 2005. As such, the petition was dismissed via the mailing of a decision on October 26, 2005.

With this renewed petition, Petitioner has asserted that the assignment document had been previously submitted for recordation on November 20, 2003, which is prevenient to the issuance of the present patent. Petitioner has provided a copy of the submission of November 20, 2003, to establish that an assignment was submitted for recordation before the issuance of the patent, and that this submission contained the names of each of the two assignees.

This assignment has been reviewed in the electronic file, and it appears that Petitioner has redacted both the receipt date on the Office of Initial Patent Examination date stamp, as well as the names of the receiving parties. As these fields have been blackened out, the Office cannot determine the contents thereof.

As such, Petitioner cannot meet the requirements of 37 C.F.R. §3.81(b).

Hence, the petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. 3.81(B)". 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. Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

On renewed petition, it is recommended that Petitioner provide a copy of this assignment, minus the redaction[6] of this crucial information.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300 - please note this is a central facsimile number.
6 It is possible that Petitioner unintentionally redacted this material via highlighting these portions of the paper, and the highlighted portions appear blackened out in the electronic copy. If such is the case, Petitioner may wish to refrain from highlighting these portions on any future submission.

5-15-06

UNITED STATES 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. : 6,919,778
Inventor(s) : Iwamoto, et. al.
Issued : July 19, 2005
Title : DUPLEXER WITH AN IMPEDANCE MATCHING CIRCUIT AND AN ELECTRONIC DEVICE USING THE SAME
Docket No. : 025720-00001

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
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

BEST AVAILABLE COPY

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

In view of the foregoing, your request is hereby denied.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 305-8309

Larry L. Coats
Coats & Bennett
P. O. Box 5
Raleigh, NC 27602

ej

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
Suite 400
1050 Connecticut Avenue, N.W.
Washington DC 20036-5339

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of :
Yasuhide Iwamoto et al. :
Application No. 10/295,910 :
Patent No. 6,919,778 :
Filed: November 18, 2002 :
Issue Date: July 19, 2005 :
Attorney Docket Number: 025720-00001 :
Title: DUPLEXER WITH AN IMPEDANCE MATCHING CIRCUIT AND AN ELECTRONIC DEVICE USING THE SAME :

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the second renewed petition filed on May 30, 2006, under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b). A duplicate was received on August 9, 2006.

The original petition was submitted on October 5, 2005, and was dismissed via the mailing of a decision on October 26, 2006. It was set forth that an assignee was inadvertently omitted from form PTOL-85B, and requests that a Certificate of Correction be issued identifying this assignee. Petitioner has submitted a "Certificate of Correction" for this purpose, which lists the second assignee's name as "Fujitsu Limited, Kanawaga (JP)."

37 CFR 3.81(b), effective June 25, 2004, reads:

1 See Official Gazette, June 22, 2004.

(b) 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.

Both Petitioner's evidence and Office records showed that the assignment of the above-identified application to this assignee was submitted for recording in the Office on August 18, 2005 (Reel/Frame 016418 / 0133), and this was not prior to the issuance of the present patent on July 19, 2005. As such, the petition was dismissed via the mailing of a decision on October 26, 2005.

The renewed petition was received on April 7, 2006, and was dismissed via the mailing of a decision on May 10, 2006: Petitioner asserted that the assignment document had been previously submitted for recordation on November 20, 2003, which is prevenient to the issuance of the present patent. Petitioner provided a copy of the submission of November 20, 2003, to establish that an assignment was submitted for recordation before the issuance of the patent, however both the receipt date on the Office of Initial Patent Examination date stamp and as the names of the receiving parties were blackened out.

With this second renewed petition, Petitioner has provided a copy of a recordation document, where the both inventors assigned their interest to Fujitsu Medical Devices Limited. The document contains a date stamp from the Office of Initial Patent Examination dated November 20, 2003. Therefore, Petitioner's evidence shows that the assignment of the above-identified application to this assignee was submitted for recording in the Office on November 20, 2003, and this was prior to the payment of the Issue Fee on April 19, 2005.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The second renewed petition is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/2/2007

TO SPE OF : ART UNIT 2600 (2618)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,912,372

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file ***(PFW)**, within **7** days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***ok to enter changes to claims as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments:

PATENT Nº 6,912,372 HAS ONLY 42 CLAIMS (1 → 42). THIS CERTIFICATE OF CORRECTION CHANGES THE DEPENDENCY OF THE CLAIMS TO NUMBER LARGER THAN 42.

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2618
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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WASHINGTON, D.C. 20231
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Paper No. 4

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MAY 22 2003

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

In re Application of	:	
Rhodes, et al.	:	
Application No. 10/295,952	:	ON PETITION
Filed: November 18, 2002	:	
Docket No.: M4065.0107/P107-E	:	

This decision 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 25, 2003.

The application was filed November 18, 2002. The Notice mailed February 25, 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 items in question a return postcard date stamped by the Office on November 18, 2002. A copy of Page 13 purportedly filed with the application on November 18, 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 petition is hereby GRANTED. The Notice is hereby WITHDRAWN and the application is accorded a filing date of November 13, 2002.

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 18, 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

Commissioner for Patents
United States Patent and Trademark Office
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STERNE KESSLER GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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NOV 09 2007

OFFICE OF PETITIONS

In re Application of :
Sung-Hsien Chang et al :
Application No. 10/295,985 : ON PETITION
Filed: November 18, 2002 :
Attorney Docket No. 1875.0610001

This is a decision on the petition, filed November 8, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 31, 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 2817 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).

SPE: E. Kease l

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/6/07

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/296,001 Patent No.: 7104279

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE: [signature]

Art Unit: 3753

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/22/06

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/296007** Patent No.: **6999905**

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. 03

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: _____

ELISEO RAMOS-FELICIANO
~~SUPERVISORY PATENT EXAMINER~~
SPE

2857
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060906

DATE : September 6, 2006

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 6999905

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:

No new matter and the scope or the meaning has not been changed by this correction.

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Marc S. Hoff **Art Unit** 2857

26 SEP 20

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

William H. Dippert
Reed Smith LLP
599 Lexington Avenue, 29th Floor
New York, NY 10022-7650

In re Application of STEINBERG, Sebastian et al. Application No.: 10/296,010 PCT No.: PCT/IL01/00359 Int. Filing Date: 18 April 2001 Priority Date: 21 May 2000 Attorney Docket No.: 080/03310 For: COMBINED IMPEDANCE IMAGING AND MAMMOGRAPHY	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition For Filing Under 37 CFR §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 15 May 2003.

BACKGROUND

On 18 April 2001, applicants filed international application PCT/IL01/00359, which claimed a priority date of 21 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 December 2001, 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 22 November 2002 (21 November 2002 was a holiday).

On 20 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 14 March 2003, USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 15 May 2003, applicants submitted a petition under 37 CFR 1.47 accompanied by a certificate of first class mailing indicating deposit on 13 May 2002.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1), (2), (3) and (4) have been met. The fee has been paid. Applicants have furnished evidence of the nonsigning inventor's refusal to sign after presentation with a complete copy of the

application papers. Applicants list the address of Mr. Dov Malonek, the non-signing inventor, as 16 Hadekel Street, Kiryat-Tivon 36056, Israel. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. 371 date of **15 May 2003**.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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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KEN J PEDERSEN
PEDERSEN & COMPANY
PO BOX 2666
BOISE ID 83701-2666

COPY MAILED

MAR 3 1 2008

In re Application of	:	
James R. CLARK	:	
Application No. 10/296,015	:	DECISION ON PETITION
Filed: April 11, 2003	:	
Attorney Docket No. 3316	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 14, 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 September 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 amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.
Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2142 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

16 MAR 2004

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of	:	
Knoedler et al.	:	
Application No. 10/296,016	:	DECISION ON
PCT No.: PCT/DE01/00166	:	
Int. Filing Date: 17 January 2001	:	PAPERS UNDER
Priority Date: 12 May 2000	:	
Atty. Docket No.: 10191/2893	:	37 CFR 1.42
For: Adjusting Apparatus Having An	:	
Optical Adjuster That Possesses...	:	

This is in response to the papers filed on 25 September 2003, which are being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 17 January 2001, claimed an earlier priority date of 12 May 2000, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 22 November 2001. A Demand electing the United States was filed before the expiration of 19 months from the priority date. Accordingly, the 30 month time period to file the basic national fee in the U.S. expired as of midnight on 12 November 2002.

On 12 November 2002, applicants filed *inter alia* the basic national fee.

On 02 June 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 01 August 2003, applicants filed a "Response To Missing Requirements Under 35 U.S.C. 371," accompanied by a declaration and the surcharge under 37 CFR 1.492(e).

On 15 August 2003, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to counsel, again requiring the filing of an executed declaration.

DISCUSSION

Inspection of the declaration reveals that indicates joint inventor Peter Roehr as "deceased" and indicates the existence of three joint heirs, namely Karin Roehr, Christian Roehr and Patrick Roehr. Karin Roehr has signed, but the signature spaces for Christian and Patrick Roehr state "MINOR - SEE BELOW." Karin Roehr has signed on behalf of Christian and Patrick Roehr as well as herself.

37 CFR 1.42 provides in part that

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Former § 1.44 required that proof of the authority of the legal representative be submitted. Effective 08 September 2000, § 1.44 was removed and reserved. The requirement to submit proof of legal authority was thereby eliminated. Thus, the signature and accompanying identification of the legal representative is sufficient to establish that the legal representative may make application on behalf of the deceased inventor.

Review of the declaration filed on 01 August 2003 reveals that it was executed by Karin Roehr on behalf of herself and of Patrick and Christian Roehr, and that it indicates that the status of each of Karin, Christian and Patrick Roehr is "Joint Heir and Legal Representative of Peter ROEHR." The translated "Certificate of Inheritance" accompanying the petition indicates that Karin, Christian and Patrick Roehr are all of the heirs of deceased joint inventor Peter Roehr. On the basis of the present record, it would be appropriate to accord the application status pursuant to 37 CFR 1.42.

DECISION

The request to accept the papers under 37 CFR 1.42 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **25 September 2003**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

28 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

#3

In re Application of	:	
Martens et al.	:	
Application No. 10/296,066	:	DECISION ON
Filing Date: 13 November 2002	:	
Atty. Docket No.: 1111.001US1	:	PETITION UNDER
For: Non-Human Model For	:	
Human Endometriosis	:	37 CFR 1.137(b)

This is in response to the petition under 37 CFR 1.137(b) filed on 13 November 2002.

BACKGROUND

International application number PCT/US00/06403 was filed on 10 March 2000 and claimed earliest priority of an application filed on 12 March 1999. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 12 September 2001. The international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 13 November 2002, applicants filed the instant petition.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of the filing of a continuing application under 35 U.S.C. 111(a) accompanied the petition.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes a statement that "abandonment of this application was unintentional and the entire delay in filing the U.S. National Stage Application from the due date to the date of this Petition was also unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** for the purpose of establishing co-pendency between international application PCT/US00/06403 and instant application number 10/296,066, filed under 35 U.S.C. 111(a). Co-pendency having been established, international application PCT/US00/06403 is again **ABANDONED** with respect to the United States.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
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29 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov

John M. Vasuta
Bridgestone/Firestone Americas Holding, Inc.
1200 Firestone Parkway
Akron, Ohio 44317

In re Application of	:	
OZAWA et al.	:	
Application No.: 10/296,082	:	DECISION ON PETITION
PCT No.: PCT/US00/30875	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 10 November 2000	:	
Priority Date: 12 November 1999	:	
Attorney Docket No.: P99127USA(P248)	:	
For: MODIFIED POLYMERS PREPARED WITH LANTHANIDE-BASED CATALYSTS	:	

The petition to revive under 37 CFR 1.137(b) filed 20 November 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $890 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Deposit Account No. 06-0925 has been charged a $1280.00 petition fee under 37 CFR 1.17(m).

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the twenty-month period is required.

Anthony Smith

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Attorney-Advisor
Office of PCT Legal Administration
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BALLARD SPAHR ANDREWS & INGERSOLL, LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:
Neville et al.	:
Application No. 10/296,085	: DECISION ON PETITION
Filed: January 13, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 14028.0284U2	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 20, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

37 CFR 1.78(a)(1) states,

> *(1) A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112.*

Provisional Application No. 60/008,103, filed October 30, 1995, does not list an inventor named in the later-filed applications. It is believed petitioner meant to reference provisional Application No. 60/008,104, as that is the application number which Application No. 08/739,703 claims benefit of.

Petition should review the claim submitted to ensure that the proper application numbers have been listed.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a substitute amendment[1], along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer 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

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of	:
Neville et al.	:
Application No. 10/296,085	: DECISION GRANTING PETITION
Filed: January 13, 2004	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 14028.0294U2	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 14, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on January 13, 2004 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 365(c) 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 365(c) 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 (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1644 for appropriate action on the amendment submitted January 14, 2009, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/296,085	01/13/2004	1644	3306	14028.0294U2	119	4

CONFIRMATION NO. 5329

CORRECTED FILING RECEIPT

23859
Ballard Spahr Andrews & Ingersoll, LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

OC000000035351344

Date Mailed: 04/06/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David M Neville, Bethesda, MD;
Jerry T Thompson, Frenchville, PA;
Huaizhong Hu, Madison, WI;
Jung-Hee Woo, Rockville, MD;
Shenglin Ma, Indianapolis, IN;
Jonathan Mark Hexham, S Orange, NJ;
Mary Ellen Digan, Winchester, MA;

Power of Attorney:

David Sadowski--32808
Richard Sterner--35372
Norbert Pontzer--40777
Tina McKeon--43791
Marlene Astor--46005
Jonathan Dixon--47229

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/16125 05/18/2001
which is a CIP of 09/573,797 05/18/2000 ABN
which is a CIP of 09/380,484 12/06/1999 PAT 6,632,928
which is a 371 of PCT/US98/04303 03/05/1998
which claims benefit of 60/039,987 03/05/1997
This application 10/296,085
is a CIP of 09/389,565 09/03/1999 PAT 7,517,527
which is a CON of 08/739,703 10/29/1996 ABN
and claims benefit of 60/008,104 10/30/1995

Foreign Applications

If Required, Foreign Filing License Granted: 04/06/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/296,085**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Immunotoxin fusion proteins and means for expression thereof

Preliminary Class

424

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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JAN 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
John T. Burke, et. al.	:	
Application No. 10/296,090	:	ON PETITION
Filed: May 14, 2003	:	
Attorney Docket No. 084317-000000US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 15, 2004, to revive the above-identified application.

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 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight October 8, 2004.

In response, petitioner submitted with the instant petition an authorization to charge, to the listed deposit account, $685 for the petition to revive fee, $685 for the issue fee, $300 for the publication fee and $30 for ten (10) advance soft copies. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to the Office of Publications for further 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
Office of the Deputy Commissioner
for Patent Examination Policy

08 MAR 2005

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DYKEMA GOSSETT, PLLC
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Washington, DC 20005

In re Application of	:	
WESTERLUND ET AL	:	DECISION ON
Application No.: 10/296,091	:	
PCT No.: PCT/SE01/01136	:	
Int. Filing Date: 21 May 2001	:	
Priority Date: 16 June 2000	:	PETITION UNDER
Attorney Docket No.: 66291-0337	:	
For: METHOD AND MOULDING TOOL FOR	:	
MANUFACTURING FIBRE-REINFORCED	:	37 CFR 1.181
PRODUCTS	:	

This decision is in response to the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS," filed 09 July 2003, which is being treated as a petition under 37 CFR 1.181 requesting acceptance of a copy of the Declaration/Power of Attorney purportedly filed in the USPTO on 05 March 2003. Applicants have submitted, inter alia, a copy of the 05 March 2003 PTO stamped itemized postcard receipt. The itemized postcard lists, *inter alia*, the following item: Declaration/Power of Attorney.

BACKGROUND

On 25 November 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. No executed declaration or oath was submitted at such time.

On 24 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be furnished. It also indicated that all the items set forth above must be submitted within two months from the date of this notice or by 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment.

On 09 July 2003, USPTO received this petition stating that the items indicated were in fact deposited with the USPTO filed on March 5, 2003.

DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the USPTO as indicated in the stamped postcard:

(1) Assignment Document
(2) Declaration/Power of Attorney

The postcard lists the above items and bears a USPTO date of stamp as 05 March 2003.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 05 March 2003.

Accordingly, the date of receipt for the Declaration is 05 March 2003. Since the Declaration was filed on 05 March 2003 prior to the mailing of the "Notification of Missing Requirements" on 24 June 2003, the Notification was mailed in error. Applicant's statement that "a copy of the transmittal is attached to the Notification" is construed as a representation that the attached copy of the Declaration is a true copy of the Declaration filed on 05 March 2003. If this is incorrect applicant must immediately notify the Office of PCT Legal Administration.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date is **05 March 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Boris Milef
PCT Legal Examiner
PCT Legal Office

11 MAY 2005
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Woods, Phillips, VanSanten, Clark & Mortimer
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Chicago, Illinois 60661

In re Application of :
UCHIDA et al. :
Application No.: 10/296,092 :
PCT No.: PCT/JP01/04356 : DECISION ON PETITION
Int. Filing Date: 23 May 2001 :
Priority Date: 25 May 2000 :
Attorney Docket No.: 1511.00009 :
For: THERMOPLASTIC HYDRAULIC COMPOSITION, FORMED ARTICLE PREPARED FROM THE COMPOSITION BY HYDRATION . . .

This decision is in response to applicant's "Petition under 37 CFR 1.181" filed 03 May 2005, which is being treated as a Petition to Withdraw the Holding of Abandonment and a Renewed Request under 37 CFR 1.42.

BACKGROUND

On 23 May 2001, applicants filed international application PCT/JP01/04356, which claimed a priority date of 25 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. A Demand was filed with the International Preliminary Examining Authority. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 25 November 2002.

On 22 November 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a copy of the international application.

On 12 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e) and an English translation of the international application. The notification set a two-month time limit in which to respond.

On 31 March 2003, applicants filed an English translation of the international application and a declaration and power of attorney executed by Kiyohiko Uchida, Hiroo Ushioda, Satoshi Ozawa, Yusuhiko Shimada, Noriyuki Kozakai, Tatsuya Okamura, and Koji Mikami as inventors and Chisa Edamura on behalf of deceased inventor, Atsushi

Edamura. In a decision dated 28 May 2003, applicants' request filed 31 March 2003 was dismissed because the declaration was not acceptable under 37 CFR 1.497(b)(2).

On 28 July 2003, applicants filed a renewed request under 37 CFR 1.42. In a decision dated 29 October 2003, applicants' request was dismissed because the declaration was not acceptable under 37 CFR 1.497(b)(2).

On 03 May 2005, applicant filed the present petition which was accompanied by: a renewed request under 37 CFR 1.42; an executed declaration; and petitioner's facsimile transmission report. Petitioner alleges that the executed declaration was submitted by first class mail on 08 December 2003.

DISCUSSION

A. Petition under 37 CFR 1.181

A review of the application file reveals that the renewed petition under 37 CFR 1.42 allegedly filed 08 December 2003 under 37 CFR 1.8 is not located in the application file.

37 CFR 1.8(b) states,

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> > (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> > (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> > (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

The evidence filed with the petition is convincing that a response including a Renewed Petition under 37 CFR 1.42 was filed with a certificate of mailing dated 08 December 2003. The response filed 08 December 2003 was timely to the Decision on Papers under 37 CFR 1.42 mailed 29 October 2003. Additionally, applicant has: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items mailed 08 December 2003, (2) supplied copies of the previously mailed correspondence; and (3) Jeffrey Clark attests that, "applicant timely responded to the 29 October 2003 Decision with a Renewed Submission under 35(sic) CFR

1.42 mailed December 8, 2003." Thus, it is considered appropriate to withdraw the holding of abandonment.

B. Renewed Request under 37 CFR 1.42

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 03 May 2005 is executed by Chisa Edamura as the "legal representative" of the deceased inventor, Atsushi Edamura. In addition, the declaration provides the residence, post office address and country of citizenship of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Therefore, applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED** and the papers filed under 37 CFR 1.42 are **ACCEPTED**.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 23 May 2001 and a date of 03 May 2005 under 35 U.S.C. 371.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.

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12 JUL 2004

#5

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In re Application of VANCE, Jeffrey M. *et al* U.S. Application No.: 10/296,096 PCT No.: PCT/US01/16940 Int. Filing Date: 24 May 2001 Priority Date: 26 May 2000 Attorney Docket No.: 5405-243 For: METHODS OF SCREENING FOR PARKINSON'S DISEASE	:	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

This decision is in response to the papers filed 22 March 2004.

Declaration Originally Filed 11 December 2002 & CRF Sequence Listing Filed 02 April 2003

Applicants' claim that a declaration was originally submitted on 11 December 2002. The declaration is not located in the file. Nonetheless, MPEP § 503 allows for a postcard receipt to serve as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office if the receipt properly identifies the papers which are being filed.

Applicants included a true copy of the date stamped postcard receipt showing that a "Declaration & POA" were originally submitted on 11 December 2002. The postcard receipt lists the application number and docket number and is stamped "Rec'd PCT/PTO 11 DEC 2002" across its face. In addition, USPTO financial records show that a surcharge fee for a late declaration was paid on 11 December 2002.

Accordingly, applicants have provided *prima facie* evidence that the declaration was originally submitted on 11 December 2002. However, applicants have <u>not</u> provided such evidence that a computer readable form (CRF) diskette of the sequence listing was provided to the USPTO on 02 April 2003.

The postcard receipt submitted with the instant petition indicates only that a "Copy of Paper Copy of Sequence Listing as filed" was submitted on 02 April 2003. The paper copy of the sequence listing dated 02 April 2003 is located in the file, but there is no indication that a CRF diskette was received.

Thus, the abandonment of this application was proper and the Notification of Abandonment (Form PCT/DO/EO/909) mailed 09 March 2004 was appropriate.

Petition to Revive

Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 22 March 2004 is hereby **GRANTED** as follows:

Applicants provided a computer readable version of the sequence listing that has been processed as good technically and entered into the database by the Scientific and Technical Information Center (STIC). The appropriate petition fee of $1,330.00 has been charged to Deposit Account No. 50-0220 as authorized. A terminal disclaimer is not required.

The petition states that the above-captioned application was "Abandoned Unintentionally." This is interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). If this is an incorrect interpretation, applicants are requested to notify this office.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration filed 11 December 2002 is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 May 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 11 December 2002.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

14 OCT 2003

#4

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In re Application of
ANSORGE et al.
U.S. Application No. 10/296,102
PCT No.: PCT/EP01/05887
Int. Filing Date: 22 May 2001
Priority Date: 23 May 2000
Attorney Docket No.: 13183.0032
For: COMBINATION OF ENZYME INHIBITOR - CONTAINING PREPARATIONS AND THE USE THEREOF

DECISION ON REQUEST

This decision is in response to applicants' "Response" filed 25 August 2003, which is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 22 May 2001, applicants filed international application PCT/EP01/05887 which claimed a priority date of 23 May 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. The international application named Siegfried Ansorge; Marco Arndt; Frank Buhling; Uwe Lendeckel; Klaus Neubret and Dirk Reinhold as applicants/inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 23 November 2002.

On 22 November 2002, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a translation of the international application; and a preliminary amendment.

On 20 March 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 August 2003, applicants filed a request under 37 CFR 1.497(d); a petition for a three-month extension of time and requisite petition fee; and a declaration executed by: Siegfried Ansorge, Marco Arndt, Frank Buhling, Uwe Lendeckel, Klaus Neubret, Dirk Reinhold, and Stefan Brocke.

DISCUSSION

A. Sequence Listing

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 20 March 2003 indicated that the nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements set forth in 37 CFR 1. 1.821- 825. Applicants state that the instant application does not contain any nucleotide or amino acid sequences and no sequence listing is required. Applicants' assertion is correct that there is no need to file a sequence listing for the present application. As such, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 20 March 2003 is vacated in part.

B. Request under 37 CFR 1.497(d)

In the instant case, the international application named Siegfried Ansorge; Marco Arndt; Frank Buhling; Uwe Lendeckel; Klaus Neubret and Dirk Reinhold as applicants/inventors. Applicants request to add Stefan Brocke as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1) and (3).

As to item (2), a review of the declaration filed on 25 August 2003 reveals that the declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes a duplicate sheet of page 4 of 4. It is unclear if the inventors were presented with only page 4, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 25 August 2003, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

In regard to item (4) above, applicants have submitted a "Consent of Assignee to Correction of Inventorship" which states, "the assignment attached hereto consents to the addition of Stephen Brocke as a co-inventor." A review of the application file reveals that the assignment is not located therein. Therefore, applicants must provide a copy of the assignment or indicate that the assignment has been recorded in the United States Patent and Trademark Office (e.g., reel and frame number).

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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24 FEB 2004

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In re Application of
ANSORGE et al.
U.S. Application No. 10/296,102
PCT No.: PCT/EP01/05887
Int. Filing Date: 22 May 2001
Priority Date: 23 May 2000
Attorney Docket No.: 13183.0032
For: COMBINATION OF ENZYME INHIBITOR - CONTAINING PREPARATIONS AND THE USE THEREOF

DECISION ON REQUEST

This decision is in response to applicants' "Response" filed 16 January 2004, which is being treated as a renewed request under 37 CFR 1.497(d).

BACKGROUND

On 22 May 2001, applicants filed international application PCT/EP01/05887 which claimed a priority date of 23 May 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. The international application named Siegfried Ansorge; Marco Arndt; Frank Buhling; Uwe Lendeckel; Klaus Neubret and Dirk Reinhold as applicants/inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 23 November 2002.

On 22 November 2002, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a translation of the international application; and a preliminary amendment.

On 20 March 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 August 2003, applicants filed a request under 37 CFR 1.497(d); a petition for a three-month extension of time and requisite petition fee; and a declaration executed by: Siegfried Ansorge, Marco Arndt, Frank Buhling, Uwe Lendeckel, Klaus Neubret, Dirk Reinhold, and Stefan Brocke. The request under 37 CFR 1.497(d) was dismissed in a

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decision dated 14 October 2003.

On 16 January 2004, applicant filed "Response" which is being treated as a renewed petition under 37 CFR 1.497(d).

DISCUSSION

In the instant case, the international application named Siegfried Ansorge; Marco Arndt; Frank Buhling; Uwe Lendeckel; Klaus Neubret and Dirk Reinhold as applicants/inventors. Applicants request to add Stefan Brocke as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1) and (3). Item (4) has been satisfied with the filing of the assignment.

As to item (2), a review of the declaration filed on 16 January 2004 reveals that the declaration is defective. Specifically, page 3 of the declaration is illegible due to facsimile transmission. Therefore, a declaration executed by all inventors is required. A declaration which is legible and in proper form will satisfy the requirements under 37 CFR 1.497(a)-(b). It is noted that a newly executed declaration is not required.

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

A proper response must be filed within **ONE MONTH** from the mail date of this decision and must include a proper declaration in compliance with 37 CFR 1.497(a)-(b) executed by all of the named inventors. No extensions of this time limit may be obtained under 37 CFR 1.136(a), but the period for response set forth in the "Decision on Request" mailed 14 October 2004 may be extended up to a maximum of five months.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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25 MAY 2004

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Buffalo, New York 14203-2391

In re Application of
ANSORGE et al.
U.S. Application No. 10/296,102
PCT No.: PCT/EP01/05887
Int. Filing Date: 22 May 2001
Priority Date: 23 May 2000
Attorney Docket No.: 13183.0032
For: COMBINATION OF ENZYME INHIBITOR - CONTAINING PREPARATIONS AND THE USE THEREOF

DECISION ON REQUEST

This decision is in response to applicants' "Response" filed 25 August 2003, which is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 22 May 2001, applicants filed international application PCT/EP01/05887 which claimed a priority date of 23 May 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. The international application named Siegfried Ansorge; Marco Arndt; Frank Buhling; Uwe Lendeckel; Klaus Neubret and Dirk Reinhold as applicants/inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 23 November 2002.

On 22 November 2002, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a translation of the international application; and a preliminary amendment.

On 20 March 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 August 2003, applicants filed a request under 37 CFR 1.497(d); a petition for a three-month extension of time and requisite petition fee; and a declaration executed by: Siegfried Ansorge, Marco Arndt, Frank Buhling, Uwe Lendeckel, Klaus Neubret, Dirk Reinhold, and Stefan Brocke. The request under 37 CFR 1.497(d) was dismissed in a decision dated 14 October 2003.

On 16 January 2004, applicant filed "Response" which is being treated as a renewed petition under 37 CFR 1.497(d). In a decision dated 24 February 2004, applicants' petition under 37 CFR 1.497(d) was dismissed without prejudice because the declaration was not in compliance with 37 CFR 1.497(a)-(b).

On 26 March 2004, applicants filed the present renewed petiiton under 37 CFR 1.497(d).

DISCUSSION

In the instant case, the international application named Siegfried Ansorge; Marco Arndt; Frank Buhling; Uwe Lendeckel; Klaus Neubret and Dirk Reinhold as applicants/inventors. Applicants request to add Stefan Brocke as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b). Applicants have provided items (1), (3) and (4).

As to item (2), a review of the declaration filed on 26 March 2004 reveals that the declaration is in compliace with 37 CFR 1.497(a)-(b).

Applicants have now satisfied items (1), (2), (3) and (4).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 22 May 2001 and a date of **26 March 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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JUN - 8 2005

#11

JACKSON WALKER, LLP
2435 NORTH CENTRAL EXPRESSWAY, SUITE 600
RICHARDSON, TX 75080

In re Application of	:
William A. Seitz et al	:
Serial No.: 10/296,110	: PETITION DECISION
Filed: May 24, 2000	:
Attorney Docket No.: 120872..0001.005	:

This is in response to the petition under 37 CFR 1.181, filed April 5, 2005, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. .

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicants on September 24, 2003. However the Notices were mailed to an incorrect address in view of the change of correspondence address submitted April 8, 2003, which was never entered. Upon failure to receive the Issue Fee the Office mailed a Notice of Abandonment to applicants on January 28, 2004, to the same incorrect address. Applicants state that the Notices were never received and provide a statement that the Notices were not received. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Notice of Allowance and Issue Fee Due and a new Notice of Allowability.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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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	: Paul Haley	: DECISION ON REQUEST FOR
Patent Number	: 7606782	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/296,114	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **518** 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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TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Paul Haley
Patent Number : 7606782
Issue Date : 10/20/2009
Application No : 10/296,114
Filed : 05/23/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **573** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

18 DEC 2002

#3

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WASHINGTON, D.C. 20231
www.uspto.gov

Li-Hsien Rin-Laures
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085

In re Application of
TANG, Y. Tom *et al*
U.S. Application No.: 10/296,115
PCT No.: PCT/US00/35017
Int. Filing Date: 22 December 2000
Priority Date: 23 December 1999
Attorney Docket No.: 784CIP3A/US
For: NOVEL NUCLEIC ACIDS AND POLYPEPTIDES

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition under 37 C.F.R. 1.137(b) for Revival of an Unintentionally Abandoned International Application Designating the U.S." filed with the national stage papers on 18 November 2002 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate basic national fee, extra claim fee, multiple dependent claim fee and petition to revive fee for a small entity have been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee for a small entity pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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APR 16 2008

In re Application of :
Lars Rodman :
Application No. 10/296,128 : ON PETITION
Filed: April 21, 2003 :
Attorney Docket No. 027650-999 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 27, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before September 19, 2007. A Notice of Abandonment was mailed on November 7, 2007. On December 27, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

COPY MAILED

JAN 30 2004

OFFICE OF PETITIONS

In re Application of	:
Marianne Nilsson et al	:
Application No. 10/296,132	: DECISION GRANTING PETITION
Filed: March 18, 2003	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 14108-101US1	:

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter will be referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114.

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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BorgWarner Inc.
Patent Administrator
3850 Hamlin Road
Auburn Hills, MI 48326-2872

Serial No. 10/296,134

In re Application of	:	
Allmang Rudiger	:	DECISION ON PETITION
Serial No. 10/296,134	:	TO WITHDRAW HOLDING
Filed: November 21, 2002	:	OF ABANDONMENT
For: CASING ASSEMBLY FOR THE TURBINE	:	
OF AN EXHAUST TURBOCHARGER	:	

Receipt is acknowledged of Applicant's "Petition To Obtain Copy of Office Action Dated March 26, 2004 for Non-receipt and to Obtain New Response Date" filed July 21, 2004 by facsimile transmission. Applicant's petition has been considered as a petition to withdraw the holding of abandonment under 37 CFR §1.181, and no fee is required.

Petitioner alleges that he did not receive the Office action in question.

The Notice published at 1156 OG 53, as discussed in MPEP §711.03(c), subsection entitled "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action", defines the minimum showing of fact that must accompany an allegation of nonreceipt of Office correspondence in support of an allegation that Office correspondence was not received. The Notice states:

> "The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. 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."

The showing submitted by petitioner in support of the allegation of nonreceipt of the Office letter dated March 26, 2004 is sufficient.

This application has been restored to PENDING status. This application will be forwarded to the examiner for remailing of the Office letter.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

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BORGWARNER INC.
PATENT ADMINISTRATOR
3850 HAMLIN ROAD
AUBURN HILLS, MI 48326-2875

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Allmang et al. :
Application No. 10/296,135 :
Filed: November 21, 2002 :
Attorney Docket No. DKT00019US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 8, 2005, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

As put forth in the final Office action mailed March 28, 2005, the shortened statutory period for reply was restarted by the examiner of record and will now end at midnight on June 28, 2005. Accordingly, the amendment submitted with the instant petition on April 8, 2005, is considered timely.

Therefore, a petition under 37 CFR 1.137(b) is not required at this time. The petition fee of $1500.00 will be refunded via treasury check to petitioner in due course.

The file does not indicate a change of address has been submitted since March 7, 2005, although the address given on the petition differs from the new address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to Technology Center 3700 for further examination on the merits.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JOHN J. MARTINEZ
PENDORF & CUTLIFF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634-7356

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Mar. 3, 2006

TO SPE OF : ART UNIT 1742 (*Roy King*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,962,673

A response is requested with respect to the accompanying request for a certificate of correction. This response is for an IFW application, **please send this form with your decision - to be scanned into the IFW contents as DOC CODE: COCX**.

then return a message in MADRAS to Team: PUBSCofC, User: employee (named below). Please complete this form and have it scanned, within 7 days.

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.

See the amdts, and the Abstract objections, as Abstract, spec. & claim changes are requested. Your denial or approval decision is needed below.

sp STAY STAY POWELL

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 x120

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

Roy King — **SPE**

1742 — **Art Unit**

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/11/2010

Applicant	: Jean Farineau	: DECISION ON REQUEST FOR
Patent Number	: 7620967	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/296,145	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2045** 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.

23 JUN 2004

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Norman J. Latker
BROWDY & NEIMARK
624 Ninth Street, N.W.
Washington, DC 2001

In re Application of
MICHIO KUBOTA ET AL.
Appl. No.: 10/296,153
PCT No.: PCT/JP01/04276
Int. Filing Date: 22 May 2001
Priority Date: 22 May 2000
Agent's File Reference: KUBOTA=11
For: ALPHA-ISOMALTOSYL-TRANSFERRING ENZYME, ITS PREPARATION AND USES

DECISION UNDER 37 CFR 1.181

Applicants' 23 February 2004 "Petition To Vacate Holding Of Abandonment" has been received. The 23 February 2004 communication is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 22 November 2002, applicants filed U.S. application 10/296,153 as a national stage entry of international application PCT/JP01/04276. A Biochemical Seq. Diskette and a Biochemical Seq. Listing in paper form were not included with the application papers.

On 13 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) informing applicants that an initial computer readable form (CRF) of the Sequence Listing and an initial paper copy of the Sequence Listing, as well as an amendment directing its entry into the specification were due.

On 06 February 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing applicants that U.S. application 10/296,153 is abandoned because applicants purportedly failed to respond to the Form PCT/DO/EO/905 mailed 13 February 2003.

On 13 December 2002, applicants filed the present petition requesting that the Form PCT/DO/EO/909 mailed 06 February 2004 be vacated and that the computer readable form and paper copies of the Sequence Listing be accepted in lieu of the originals filed on 14 April 2003.

DISCUSSION

MPEP at section 503 states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

A review of the 23 February 2004 communication reveals that applicants filed a response to the Form PCT/DO/EO/905 on 14 April 2003. The copy of the return receipt postcard indicates that a "SEQUENCE LISTING WITH DISK", inter alia, was filed on 14 April 2003. Therefore, the copies of the Sequence Listing in computer readable form (CRF) and the Sequence Listing in paper form may properly be **ACCEPTED as having been filed on 14 April 2003.** The Form PCT/DO/EO/909 mailed 06 February 2004 was sent in error.

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED.** The Form PCT/DO/EO/909 mailed 06 February 2004 is hereby **VACATED.** This application is being returned to the DO/EO/US for entry of the copies of the Sequence Listing in computer readable form (CRF) and the Sequence Listing in paper form as having been filed on 14 April 2003.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/RC:jf

(703)308-6154

31 MAR 2004

#8

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BURNS, DOANE SWECKER & MATHIS
PO Box 1404
Alexandria, Virginia 22313-1404

In re Application of: MOSBACH, Klaus, et al.	:	
U.S. Application No.: 10/296,154	:	DECISION ON RENEWED
PCT No.: PCT/SE01/01128	:	PETITION TO CORRECT
International Filing Date: 21 May 2001	:	INVENTORSHIP
Priority Date: 22 May 2000	:	
Attorney's Docket No.: 003301-012	:	
For: MOLECULAR IMPRINTING	:	

In a decision mailed by this Office on 26 November 2003, applicants' petition to correct inventorship under 37 CFR 1.497(d) was dismissed for failure to satisfy all the requirements of a grantable request. Specifically, applicant had not provided a copy of the assignment, referred to in the original submission.

On 23 January 2004, applicants filed the "Response To Decision On Petition To Correct Inventorship" considered herein as a renewed petition. The response includes a copy of the "Statement Under 37 CFR 3.73(b)" which refers to an assignment from co-applicants Ecevit YILMAZ and Karsten HAUPT to co-applicant Klaus MOSBACH, and a copy of such assignment. Assignee Klaus MOSBACH has previously submitted his consent to the proposed change of inventorship.

Based on this submission, applicants have now satisfied the requirements of 37 CFR 1.497(d). The request to correct inventorship is **GRANTED**.

Domingo SANCHEZ and Per MOLLER are added as applicant/inventors of record for the present application. Based on the addition of these applicant/inventors, the declaration filed on 27 October 2003 is now acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 27 October 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

Mail Date: 04/20/2010

Applicant	: Kai Desinger	: DECISION ON REQUEST FOR
Patent Number	: 7666183	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/296,189	: OF WYETH
Filed	: 04/23/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

Mail Date: 04/23/2010

Applicant	: Kai Desinger	: DECISION ON REQUEST FOR
Patent Number	: 7666183	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/296,189	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1092** 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.

21 SEP 2004
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Anita Nador
Bereskin & Parr
Box 401 40 King Street West
Toronto, ON M5H 3Y2
CANADA

In re Application of	:	
Vuksan	:	
Application No.: 10/296,196	:	
PCT No.: PCT/CA01/00774	:	
Int. Filing Date: 31 May 2001	:	DECISION
Priority Date: 31 May 2000	:	
Attorney Docket No.: 11751-13	:	
For: Konjac Mannan And Ginseng Compositions	:	
And Methods And Uses Thereof	:	

This is a decision on applicants' request for "Petition Under 37 C.F.R. 1.182" filed on 25 February 2004.

BACKGROUND

This international application was filed on 31 May 2001 and claimed an earlier priority date of 31 May 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 06 December 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty month period for payment of the basic national fee in the United States will expire as of midnight on 31 November 2002. On 29 November 2002, applicant filed *inter alia* the basic national fee.

On 08 May 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of additional claims fees, an executed oath or declaration of the inventor, and a surcharge under 37 CFR 1.492(e).

On 30 January 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements.

DISCUSSION

Petitioner requests that the Notification of Abandonment be withdrawn. Counsel argues that

> The Applicant asserts that the response was indeed timely filed on July 7, 2003. A copy of the proof of filing is attached as Exhibit "B" and a copy of the response is attached as Exhibit "C." However, the response listed the

incorrect U.S. Patent Application No. 10/295,196. The U.S. Patent Application No. 10/296,196 should have been on the response. The Applicant also asserts that the correct U.S. Patent Application No. 10/296,196 was included with the response, because a copy of the Notification of Missing Requirements was enclosed with the response. Please see Exhibit "C." Thus, the Applicant respectfully submits that the response was indeed timely filed and that the application should not have gone abandoned.

Counsel presents copies of a "Response to Notification of Missing Requirements," an executed declaration of the inventor, an application data sheet, and a copy of a return postcard receipt directed to "Serial No. 10/295,196" and stamped as received by the USPTO on 07 July 2003. The postcard receipt is nearly illegible, but it appears to only enumerate a "Resp. To Office Action" without specifically itemizing papers making up said response. As explained at MPEP 503, a stamped return postcard receipt constitutes *prima facie* evidence of receipt by the USPTO only of elements of the correspondence which were specifically itemized on the postcard receipt. In this case, the postcard receipt cannot be relied upon to establish that the "Response to Notification of Missing Requirements," the executed declaration of the inventor, and the application data sheet in question in fact were received on 07 July 2003.

However, review of the records of the USPTO reveals that the "Response to Notification of Missing Requirements," the executed declaration of the inventor, and the application data sheet in fact were received by the USPTO and placed in the file of application number 10/295,196. On the basis of counsel's explanation that the papers were misdirected as a result of an "error," the fact that the executed declaration filed on 07 July 2003 refers to international application number PCT/CA01/00774, and the fact that correct application number 10/296,196 appears on the Fee Transmittal filed on 07 July 2003, the papers in question are being placed in the instant application file with a receipt date of 07 July 2003. Accordingly, the Notification of Abandonment mailed on 30 January 2004 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **07 July 2003**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

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JUL 13 2005

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUTT AVNUE, NW
SUITE 700
WASHINGTON, DC 20036

In re Application of	:
Francis J. Pinto et al	:
Serial No.: 10/296,215	: PETITION DECISION
Filed: June 4, 2003	:
Attorney Docket No.: 021558	:

This is in response to the petition under 37 CFR 1.144, filed April 21, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and accepted on June 4, 2003, and, as amended, contained claims 11-23.. In a first Office action, mailed March 22, 2004, the examiner set forth a restriction requirement dividing the claims into three groups, as follows:

> Group I – claims 11-19, drawn to a combination kit for treating malaria;
> Group II – claims 20-21, drawn to a method of producing the kit; and
> Group III, claims 22-23, drawn to a method of treating malaria.

The examiner reasoned that the inventions were independent and distinct as shown by their separate status in the art.

On April 22, 2004, the applicants replied electing Group I with traverse and noting that the application was filed under 35 U.S.C. 371 and must follow Lack of Unity requirements under PCT Rule 13, not restriction requirements under 35 U.S.C. 111.

The examiner mailed a new Office action to applicants on January 27, 2005, maintaining the restriction requirement and replying to applicants' traversal by referring to the reasons set forth in the previous Office action and making the requirement Final.. The examiner also rejected claims 11-19 under 35 U.S.C. 112, second paragraph, as indefinite and under 35 U.S.C. 103(a) as unpatentable over J. S. Lunn et al in view of K. Kar et al.

Applicant then filed this petition on April 21, 2005, along with a reply to the Office action which was held to be non-compliant by Notice mailed May 11, 2005, and to which a reply was made on May 16, 2005..

DISCUSSION

Applicants argue in their petition that the requirement for restriction was improperly made under 35 U.S.C. 121, but that this application was filed under 35 U.S.C. 371 and must follow PCT Rule 13 for determining Lack of Unity. Applicants argue that all three groups of claims rely on the same inventive concept and therefore have Unity.

A review of the claims shows that all of the claims contain as the alleged novelty the drugs to be administered to treat malaria. As such the claims have Unity of Invention and the restriction requirement was improper and is hereby withdrawn.

DECISION

The petition is **GRANTED.**

The application will be forwarded to the examiner for consideration of all claims pending.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300

Bruce M. Kisliuk
Director, Technology Center 1600

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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of
Haramoto
Patent No. 6,838,129
Application Number: 10/296,226
Issue Date : January 4, 2005
Filing Date: December 4, 2002
Attorney Docket Number: 021125

DECISION ON PETITION

This is a decision on the petition for certificate of correction under 37 CFR 1.183 filed on April 29, 2005. The petition is properly treated under 37 CFR 3.81 (b) to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are not permitted. The reconsideration request should include a cover letter entitled "Renewed Petition". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Effective June 25, 2004, when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these request before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(I)

Petitioner has failed to establish (A). A review of Office Assignment records shows that the above patent was assigned solely to Nippon Chemical Industrial Co., Ltd., Tokyo (JP). There is no indication that Yuichiro Haramoto was a joint assignee. The assignment dated November 18, 2002 does not appear to have been recorded prior to issuance of the patent. Accordingly, a correction of the assignee's name is not in order. If an assignment was recorded please provide the frame and reel number in any renewed petition filed.

Further correspondence with respect to this matter may be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of Haramoto Patent No. 6,838,129 Application Number: 10/296,226 Issue Date : January 4, 2005 Filing Date: December 4, 2002 Attorney Docket Number: 021125	DECISION ON PETITION

This is a decision on the renewed petition for certificate of correction under 37 CFR 3.81 (b) filed on October 31, 2005.

The petition is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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FEB 02 2004

OFFICE OF PETITIONS

Applicant: Ryoo
Appl. No.: 10/296,241
Filing Date: December 6, 2002
Title: INTERNET ADVERTISEMENT SYSTEM AND METHOD IN CONNECTION WITH VOICE HUMOR SERVICES
Attorney Docket No.: P23049.A05
Pub. No.: US 2003/0182126 A1
Pub. Date: September 25, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on November 25, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains numerous mistakes on page 3, paragraphs 0037 and 0041; page 4, paragraphs 0050, 0051, 0055, and 0066, paragraphs 0086, 0093, and 0099; claims 7 and 12; and ; the abstract.

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 errors noted in the patent application publication are Office mistakes, but they are not material errors, as they are minor typographical errors which are understandable from reading the specification and claims in which the terms are used, as terms are not read in a vacuum. Examples of some of the errors noted by applicant include: the misspelling of "tine" for "time", missing periods, missing colons, the misspelling of "calf" for "or", and the misspelling of "stall" for "small". The misspelling are minor typographical errors, which are clearly understandable from reading the specification and claims, as words are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

---

[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).

Additionally, Applicant is advised that many of the errors in the publication may have been caused by the poor quality of the text in the application as originally filed. Applicant may want to consider filing applications with cleaner text in the future to prevent errors in the publication of other applications.

With respect to the abstract, the patent application publication does not include a mistake in the publication by the Office because patent application publications do not include preliminary amendments, according to

37 CFR 1.215(a), which says the following, in part:

> (a) ... The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended during examination, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the actual filing date of the application or fourteen months of the earliest filing date for which is sought under title 35, United States Code, whichever is later.

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 3622 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE, SUITE 2200
MONTREAL, QC H3A 3-H3

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	
Naim Karazivan	
Application No. 10/296,246	DECISION ON PETITION
Filed: July 14, 2003	TO WITHDRAW
Attorney Docket No. P1009US00	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney GOUDREAU GAGE DUBUC has been revoked by the assignee of the patent application on June 12, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Denise Williams at 571-272-8930.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Anglehart et al.
Suite 1, Sutton House
186, Place Sutton
Beaconsfield QC H9W 5S3 CA CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Kari Innala	: DECISION ON REQUEST FOR
Patent Number	: 7583679	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/296,257	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1301** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-11-06

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 6963010

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1621

SPE

1621
Art Unit

10/296259

Cap

OIPE IAP25
DEC 27 2005
PATENT & TRADEMARK OFFICE

Docket No.: 22116-00008-US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Mark R. Burns et al.

Patent No.: 6,963,010 B2

Issued: November 8, 2005

For: HYDROPHOBIC POLYAMINE ANALOGS AND METHODS FOR THEIR USE

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
JAN 03 2006
of Correction

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted a typographical error which should be corrected.

In Section (75) Inventors:

The third inventor was missing from the letters patent. Please insert the following name: Nand Baindur as the third inventor.

The error was not in the application as filed by applicant; accordingly no fee is required.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

JAN 05 2006

Applicant believes no fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 22116-00008-US1 from which the undersigned is authorized to draw.

Dated: December 22, 2005

Respectfully submitted,

By _____

Burton A. Amernick
Registration No.: 24,852
CONNOLLY BOVE LODGE & HUTZ LLP
Correspondence Customer Number: 30678
Attorney for Applicant

JAN 05 2006

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	6,963,010 B2
APPLICATION NO.	:	10/296,259
ISSUE DATE	:	November 8, 2005
INVENTOR(S)	:	Mark R. Burns et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Section (75) Inventors, please add the third inventor:

Nand Baindur

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Burton A. Amernick
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036-3425

JAN 05 2006

OIPE IAP25
DEC 27 2005
PATENT & TRADEMARK OFFICE

PTO/SB/92 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Application No. (if known): 10/296,259 Attorney Docket No.: 22116-00008-US1

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on December 22, 2005
Date

Nicole Brown
Signature

Nicole Brown
Typed or printed name of person signing Certificate

Registration Number, if applicable

Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Request for Certificate of Correction (2 pages)
Certificate of Correction (1 page)

JAN 05 2006

11 JAN 2005
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

Gray Cary Ware Freidenrich
4365 Executive Drive
Suite 1100
San Diego,CA 92121

In re Application of FEINBERG et al. Application No.: 10/296,263 PCT No.: PCT/US01/16253 Int. Filing: 22 May 2001 Priority Date: 22 May 2000 Attorney Docket No.: 01107.00314 For: METHODS FOR ASSAYING GENE IMPRINTING AND METHYLATED CpG ISLANDS	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "PETITION UNDER 37 CFR 1.181(a) FOR WITHDRAWAL OF HOLDING OF ABANDONMENT" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 10 December 2004 and 10 January 2005. No petition fee is required.

BACKGROUND

On 21 November 2002, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 04 February 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), was required.

On 20 October 2004, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 10 December 2004, in response to the Notification of Abandonment, applicant filed the instant response with a copy of 07 May 2003 response to Missing Requirements, a copy of the declaration and an itemized USPTO date-stamped postcard indicating that an executed declaration and a request for a two month extension of time was filed on 07 May 2003.

DISCUSSION

The original declaration filed on 07 May 2003 is not located in the application file. A review of the finance records for 10/296,263 indicates that on 07 May 2003, the $65 surcharge for filing the declaration after the thirty month period was paid, along with fees for a two month extension of time.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 2, May

2004)(MPEP):

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 07 May 2003.

The evidence submitted is sufficient to establish that a declaration for this application was received in the USPTO on 07 May 2003. The communication filed 10 December 2004 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 07 May 2003. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies the inventors, and states the citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The copy of the declaration originally submitted on 07 May 2003 and resubmitted on 10 December 2004 is acceptable and meets the requirements of 37 CFR 1.497.

The 20 October 2004 Notification of Abandonment is hereby **VACATED**. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **07 May 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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United States Patent and Trademark Office
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Richard L Byrne
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/28/2010

Applicant	: Cornelis Stinis	: DECISION ON REQUEST FOR
Patent Number	: 7665784	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/296,277	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **380** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

Webb Ziesenheim Bruening Logsdon
Orkin & Hanson
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/21/2010

Applicant	: Jan Storm	: DECISION ON REQUEST FOR
Patent Number	: 7617625	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/296,278	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **913** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056

In re Application of :
Giancarlo Tomasso Pietro Pia :
Application No. 10/296,295 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. MRKS/0086

This is a decision on the petition filed, November 1, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 27, 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 3672 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).

FEB 1 2 2004
TRADEMARK OFFICE

Image

Image 1722

Patent / Docket No. 33289.3

Pet. Sec.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Clemens Van Der Weegen	§		
		§	Group Art Unit:	Unknown
Serial No.:	10/296,296	§		
		§		
Filed:	April 23, 2003	§	Examiner:	Unknown
		§		
For:	Manufacture of Dome-Shaped Articles from Thermoplastic Foam Sheet Material	§		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD AND CHANGE OF CORRESPONDENCE ADDRESS
(37 C.F.R. § 10.40)

The undersigned respectfully requests that the attorneys/agents associated with Customer Number 08-1394 be granted permission to withdraw from all further responsibility in the above-identified patent application in accordance with 37 C.F.R. § 1.36.

The basis for the request for withdrawal is 37 C.F.R. § 10.40(b) section 4, namely, the client informed us that our services were no longer needed.

Please change the correspondence address and direct all future correspondence to:

Naifeh / Guillot
Two Galleria Tower Center
13455 Noel Road, Suite 1000
Dallas, Texas 75240

Telephone: 972-774-4560
Facsimile: 214-515-0411

Approved
Jacqueline M. Stone, Director
Technology Center 1700

Approved
Jacqueline M. Stone, Director
Technology Center 1700

JUN 2 9 2004

Respectfully submitted,

Randall C. Brown
Reg. No. 31,213

Date: 2/9/04

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Direct Phone: 214.651.5242
Direct Fax: 214.200.0853
File: 33289.3

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 2/9/2004
Ellen Lovelace

D-1206500_1.DOC

Pet. Sec.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Bib Data Sheet

CONFIRMATION NO. 1118

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/296,296	04/02/2003 RULE	264	1732	

APPLICANTS

Clemens Van Der Weegen, Newington, AUSTRALIA;

**** CONTINUING DATA ****************************

This application is a 371 of PCT/AU01/00584 05/21/2001

**** FOREIGN APPLICATIONS ***********************

AUSTRALIA PQ 7693 05/23/2000

** SMALL ENTITY **

Foreign Priority claimed 35 USC 119 (a-d) conditions met Verified and Acknowledged	☐ yes ☐ no ☐ yes ☐ no ☐ Met after Allowance Examiner's Signature Initials	STATE OR COUNTRY AUSTRALIA	SHEETS DRAWING 13	TOTAL CLAIMS 11	INDEPENDENT CLAIMS 2

ADDRESS

Naifeh/ Guillot
Two Galleria Tower Center
13455 Noel Road Suite 1000
Dallas ,TX 75240

TITLE

Manufacture of dome-shaped articles from thermoplastic foam sheet material technical field

FILING FEE RECEIVED 585	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

19 SEP 2005

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Ursula B. Day
The Offices of Herny M. Feiereisen
350 Fifth Avenue
Suite 4714
New York, NY 10118

In re Application of	:	
DICHTL, et al.	:	
PCT No.: PCT/EP00/04641	:	DECISION ON PETITION
Application No.: 10/296,297	:	
Int. Filing Date: 22 May 2000	:	UNDER 37 CFR 1.10
Priority Date: None	:	
Atty. Docket No.: DICHTL-2	:	
For: PROCESS FOR PRODUCING CONCENTRATED	:	
NITRIC ACID AND INSTALLATION TO	:	
CARRY OUT THE PROCESS	:	

This is a decision on applicant's "Petition Under 37 CFR 1.181" filed on 30 August 2005 in the United States Patent and Trademark Office (USPTO) seeking a corrected "Notice of Acceptance" and corrected filing receipt indicating a 35 U.S.C. 371 date of 19 December 2002. As the evidence presented is based on the use of Express Mail from the United States Postal Service, the petition is being treated as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

On 22 May 2000, applicant filed international application PCT/EP00/04641. A copy of the international application was communicated to the USPTO from the International Bureau on 29 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 November 2002.

On 21 November 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment. An executed oath or declaration of the inventors as required by 35 U.S.C. 371 (c)(4) was not filed.

On 19 December 2002, applicant filed an executed combined declaration and power of attorney.

On 16 June 2003, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 18 December 2002.

On 30 August 2005, applicant filed the present petition requesting a corrected filing receipt and "Notification of Acceptance" indicating that the papers at issue, satisfying the 35 U.S.C. 371 requirements, were filed 19 December 2002.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. Regarding item (3) specifically, in addition to the mailing label, applicant has provided a receipt from the USPS showing that the mailing in question was deposited with the USPS on "12/19/02 03:51PM." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The application will be given an international filing date of 22 May 2000 under 35 U.S.C. 363 and a date of **19 December 2002** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 16 June 2003 indicating a date of 18 December 2002 under 35 U.S.C. 371(c) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

NOV 27 2007

OFFICE OF PETITIONS

In re Application of
Bart VINCK
Application No. 10/296,318
Filed: November 22, 2002
Attorney Docket No. 449122046000

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 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 with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed August 31, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: BART VINCK
TAUBINGER STR. 15
81477 MUNCHEN
GERMANY

cc: BELL, BOYD & LLOYD, LLP
P.O.BOX 1135
CHICAGO, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/296,318	11/22/2002	Bart Vinck	449122046000

CONFIRMATION NO. 7039

POWER OF ATTORNEY NOTICE

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

OC000000026405134

Date Mailed: 11/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin, TX 78701

Mail Date: 04/20/2010

Applicant	: Bart Vinck	: DECISION ON REQUEST FOR
Patent Number	: 7620183	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/296,318	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2035** 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
www.uspto.gov

Date : 11/07/07

Patent No. : 7270995 B2
Ser. No. : 10/296,383
Inventor(s) : MATSUSHITA, HIROSHISA
Issued : 09/18/07
Title : **ANALYZING DEVICE**
Docket No. : Q72994

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
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If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

SUGHRUE MION, PLLC
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LMN

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OFFICE OF PETITIONS

In re Patent No. 7,270,995	:	
Application No. 10/296,383	:	
Filed: November 25, 2002	:	ON PETITION
Issued: September 18, 2007	:	
Attorney Docket No. Q72994	:	

This is a decision on the petition filed December 4, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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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 Anderson et al. :
Application No. 10/296,410 : Decision on Petition
Filing Date: April 18, 2003 :
Attorney Docket No. 247491US55PCT :

This is a decision on the petition under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b), filed January 24, 2007, to revive the above-identified application. The petition will also be considered under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

Facts:

The Office mailed a decision by the Board of Patent Appeals and Interferences (Board) on September 27, 2006.

Pursuant to 37 CFR 1.304(a)(1), one has two months after a Board decision to commence action in District Court or appeal to the United States Court of Appeals for the Federal Circuit. Petitioner took neither action and did not take to have the two-month time period extended pursuant to 37 CFR 1.304(a)(3).

None of the claims stood allowed and the Board's decision did not require further action by the examiner. As a result, proceedings on the application were considered to have terminated on November 28, 2006. *See* 37 CFR 1.197(b)(1).

The Office mailed a Notice of Abandonment on December 18, 2006.[1]

[1] MPEP 201.11 states, "When proceedings in an application are terminated, the application is treated in the same manner as an abandoned application, and the term "abandoned application" may be used broadly to include such applications." *See also* In re Bryan, 2 U.S.P.Q. 2D 1215 (Comm'r Pat. 1986).

The instant petition was filed January 24, 2007. The petition states petitioner never received a copy of the decision. The petition is accompanied by an amendment and Request for Continued Examination (RCE).

Discussion:

The Office has reviewed the September 27, 2007 Decision by the Board and discovered the Decision was mailed to an incorrect address. Therefore, the application is not abandoned and proceedings on the application are not terminated.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner has filed an amendment and RCE. The petition is accompanied by an amendment and Request for Continued Examination (RCE). Pursuant to 37 CFR 1.198, one may file a RCE in order to reopen prosecution after a final decision by the Board. The examiner will consider the RCE and amendment in due course.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. The Office has scheduled a refund of the $500 petition fee.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. The Office has not charged the petition fee to petitioner's deposit account.

Technology Center Art Unit 1771 will be informed of the instant decision and the examiner will consider the RCE and amendment filed January 24, 2007, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Kam et al. :
Application No. 10/296413 : ON PETITION
Filed: 09/22/2003 :
Atty Docket No. 080038-0004 :

This is a decision on the petition under 1.137(b),[1] filed on 1 June, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 26 August, 2006, for failure to timely respond to the non-final Office action mailed on 25 May, 2006, which set a three (3) month shortened statutory period

---

[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)).

for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 25 April, 2007.

Petitioners have filed an amendment as the required reply.

The application is being referred to Technology Center Art Unit 2834 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of
Charles P. Lin
Application No. 10/296,417
Filed: July 9, 2003
Atty Docket No.: 00786-509US1

ON PETITION

This is a decision on the petition, filed June 29, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 8, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that 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.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 3735 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110

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Date : June 30, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Charles P. Lin
Application No. : 10/296,417
Filed : July 9, 2003

The above-identified application has been assigned Patent No. 7,070,593 and an issue date of July 4, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 4, 2006:

> "All reference to Patent No. 7,070,593 to CHARLES P. LIN of MASSACHUSETTS for SELECTIVE PHOTOCOAGULATION appearing in the Official Gazette of July 4, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

#5

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12 AUG 2003

Kia Silverbrook
Silverbrook Research
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of	:	
SILVERBROOK, Kia	:	
Application No.: 10/296,432	:	DECISION ON PETITION
PCT No.: PCT/AU00/00590	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 24 May 2000	:	
Priority Date: None	:	
Attorney Docket No.: MJ58US	:	
For: A NOZZLE GUARD FOR AN INK JET PRINTHEAD	:	

The petition to revive under 37 CFR 1.137(b) filed 01 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $1060 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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15 SEP 2003

K. SILVERBROOK
SILVERBROOK RESEARCH PTY, LIMITED
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

In re Application of KIA SILVERBROOK Serial No.: 10/296,433 PCT No.: PCT/AU00/00595 Int. Filing Date: 24 May 2000 Priority Date: NONE Attorney's Docket No.: PAK05US For: AIR SUPPLY ARRANGEMENT FOR A PRINTER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicant's 'Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137 (b)" filed in the United States Patent and Trademark Office on 01 August 2003.

BACKGROUND

On 24 May 2000, applicant filed international application No. PCT/AU00/00595 which claimed no priority.

On 14 September 2001, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 November 2002.

On 23 November 2002, applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. §371 which was accompanied by authorization to charge a credit card for the basic national fee. However, a review of the application file reveals that the credit card charge was declined on 10 December 2002.

On 19 May 2003, a Notification of Abandonment was mailed to applicant indicating that the application was abandoned for failure to provide the full U.S. Basic national fee by the 30 month deadline.

On 01 August 2003, applicant filed a petition to revive with the petition fee of $1300, requesting the withdrawal of the abandonment of the application accompanied by the basic national fee of $1080.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally

abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

With respect to Items (2) and (3), applicant's statement that "the entire delay in filing the required reply from the due date until the filing of the petition was unintentional" meets the requirements of 37 CFR 1.137(b)(3). The required petition fee of $1300 has also been paid.

With regard to Item (1), a review of the application file reveals that the proper reply has been provided with the payment of the basic national fee of $1080. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

The petition to revive under 37 CFR 1.137(b) is **GRANTED.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing. The 34 U.S.C. 371 date is **01 August 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

25 AUG 2005

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Managing Director
Silverbrook Research Pty Ltd
393 Darling Street
Balmain, NSW 2041
AUSTRALIA

In re Application of:	:	
SILVERBROOK, Kia	:	
U.S. Application No.: 10/296,434	:	DECISION ON PETITION
PCT No.: PCT/AU00/00578	:	FOR REVIVAL UNDER
International Filing Date: 24 May 2000	:	37 CFR 1.137(b)
Priority Date: None	:	
Attorney's Docket No.: IJ52US	:	
For: INK JET PRINTHEAD HAVING A MOVING	:	
NOZZLE WITH AN EXTERNALLY	:	
ARRANGED ACTUATOR	:	

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b), filed 01 July 2005.

BACKGROUND

The background for the present application was set forth in detail in the decision mailed herein on 03 May 2005. That decision treated applicant's 06 April 2005 submission as a petition under 37 CFR 1.181 to confirm that a Petition for Revival under 37 CFR 1.137(b) was filed by applicant in July 2003. The petition was dismissed without prejudice for failure to provide adequate evidence that the accompanying copy of the Petition for Revival had originally been filed in July 2003.

On 01 July 2005, applicant filed the Petition for Revival under 37 CFR 1.137(b) considered herein.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The remaining item here is the required petition fee. As noted in the 03 May 2005 decision, the USPTO has received a petition fee herein which can be applied to the present

petition. However, the previously paid petition fee is in the amount of $1,300, the appropriate petition fee at the time such fee was submitted in July 2003. Unfortunately, the 03 May 2005 decision failed to note that the fee for a petition for revival under 37 CFR 1.137(b) has since been raised to its present level of $1,500. Thus, while the previously filed petition fee of $1,300 can be applied to the present Petition for Revival, filed 01 July 2005, an additional $200 is required to complete payment of the applicable fee.[1] Until this additional $200 fee payment is received, item (2) of a grantable petition is not satisfied.

Payment of this additional $200 in fees can be avoided if applicant submits evidence confirming the original filing of a Petition for Revival in July 2003 (in which case, the appropriate petition fee would be the $1,300 fee submitted at that time). Adequate evidence of the previous filing would include a copy of the previously filed petition, a statement confirming that the attached document is a true copy of the materials originally filed in July 2003, and evidence of such filing (e.g., a copy of a return postcard itemizing the petition and bearing a USPTO receipt stamp).

CONCLUSION

Applicant's Petition For Revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and include the additional $200 required to complete payment of the applicable petition fee or acceptable evidence confirming the filing of the earlier Petition for Revival in July 2003, as discussed above.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, 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

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

[1] Pursuant to 35 U.S.C. 41(a), the proper petition fee due is the fee in effect "on filing."

27 SEP 2005

#8

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Managing Director
Silverbrook Research Pty Ltd
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AUSTRALIA

In re Application of:	:	
SILVERBROOK, Kia	:	
U.S. Application No.: 10/296,434	:	DECISION ON RENEWED
PCT No.: PCT/AU00/00578	:	PETITION FOR REVIVAL
International Filing Date: 24 May 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: None	:	
Attorney's Docket No.: IJ52US	:	
For: INK JET PRINTHEAD HAVING A MOVING	:	
NOZZLE WITH AN EXTERNALLY	:	
ARRANGED ACTUATOR	:	

In a decision mailed on 25 August 2005, applicant's petition under 37 CFR 1.137(b) was dismissed without prejudice for failure to submit all the requirements of a grantable petition. Specifically, applicant had not submitted the full applicable petition fee (applicant's $1300 fee payment was $200 under the required $1500).

On 25 September 2005, applicant filed the renewed petition considered herein. The renewed petition was accompanied by a payment of the $200 required to complete the petition fee. Applicant has therefore satisfied all the requirements for a grantable petition under 37 CFR 1.137(b).

The renewed petition for revival under 37 CFR 1.137(b) is **GRANTED**.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) is 07 July 2003 (the date USPTO records indicate receipt of the applicable $1,060 basic national fee).

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

23 SEP 2004

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K. Silverbrook
SILVERBROOK RESEARCH PTY LTD.
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of SILVERBROOK, Kia U.S. Application No.: 10/296,435 PCT No.: PCT/AU00/00579 Int. Filing Date: 24 May 2000 Priority Date: None Attorney Docket No.: IJM52US For: METHOD OF MANUFACTURE OF AN INK JET PRINTHEAD HAVING A MOVING NOZZLE . . .	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicant's "Petition to Revive Under 37 C.F.R. 1.137(b)" filed on 01 August 2003 is hereby **GRANTED** as follows:

The appropriate petition fee of $1,330.00 has been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.137(a) and (b) was submitted with the national stage papers. The surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) has been paid.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 May 2000, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 August 2003. This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457; (571) 272-3302 (after 01 October 2004)

17 MAY 2005

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#4

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Kia Silverbrook
Managing Director
Silverbrook Research Pty Ltd
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of SILVERBROOK et al. Application No.: 10/296,436 PCT Application No.: PCT/AU00/00593 Int. Filing Date: 24 May 2000 Priority Date: None Attorney Docket No.: MJ47US For: METHOD AND APPARATUS FOR COMPENSATION FOR TIME VARYING NOZZLE MISALIGNMENT IN A DROP ON DEMAND PRINTHEAD	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (PTO) on 01 August 2003 is GRANTED.

BACKGROUND

On 24 May 2000, applicants filed international application PCT/AU00/00593 designating the United States. The deadline to pay the basic national fee was thirty months from the international filing date, that is 24 November 2002. The application became abandoned at midnight 24 November 2002 for failure to pay the basic national fee.

On 23 November 2002, applicants filed a transmittal letter for entry into the US national stage under 35 U.S.C. 371, which was accompanied by, *inter alia*, a copy of the international application as required by 35 U.S.C. 371(c)(2), an executed declaration as required by 35 U.S.C. 371(c)(4), and authorization to charge the basic national fee to applicants' credit card. This credit card was declined, and thus the basic national fee was not paid.

On 25 June 2003, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that applicants failed to provide the full U.S. Basic National Fee by the thirty month deadline.

On 01 August 2003, applicants filed the instant petition for revival accompanied by, *inter alia*,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and the petition fee of $1300.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage.

Applicants' statement in the petition that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). The submission of the national fee satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is <u>GRANTED</u> as to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Amy Vanatta
Detailee
PCT Legal Administration
Telephone: 571-272-6095
Facsimile: 571-273-0459

12 AUG 20

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AUSTRALIA

In re Application of SILVERBROOK	:	
U.S. Application No.: 10/296,438	:	
PCT Application No.: PCT/AU00/00597	:	DECISION
Int. Filing Date: 24 May 2000	:	
Priority Date Claimed: (none)	:	
Attorney Docket No.: PAK07US	:	
For: ROTATING PLATEN MEMBER	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 01 August 2003.

BACKGROUND

On 24 May 2000, applicant filed international application PCT/AU00/00597. A copy of the international application was communicated to the USPTO from the International Bureau on 29 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 24 November 2002.

International application PCT/AU00/00597 became abandoned as to the United States for failure to timely pay the requisite basic national fee.

On 01 August 2003, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 May 2000, and a date under 35 U.S.C. 371(c) of 01 August 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/296,438	Kia Silverbrook	PAK07US

INTERNATIONAL APPLICATION NO.
PCT/AU00/00597

I.A. FILING DATE	PRIORITY DATE
05/24/2000	

K Silverbrook
Siverbrook Research
393 Darling Street
Balmain, NSW 2041
AUSTRALIA

CONFIRMATION NO. 7839

371
ABANDONMENT/TERMINATION LETTER

OC000000010050830

Date Mailed: 05/19/2003

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495,and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

MAMIE P PERSON

Telephone: (703) 305-3737

PART 3 - OFFICE COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

01 AUG 2003

Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of GIANGRASSO, Antonio Application No.: 10/296,470 PCT No.: PCT/EP01/05151 Int. Filing Date: 07 May 2001 Priority Date: 10 May 2000 Docket No.: 402-1023 For: GRANULAR CERAMIC MATERIAL WITH HIGH POROSITY	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)," filed in the above-captioned application on 25 November 2002 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 25 November 2002 under 35 U.S.C. §371.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

31 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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ALEXANDRIA, VA 22313-1450
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Louis A. Coffelt, Jr.
5297 Martin Street
Mira Loma, CA 91752

In re Application of	:	
COFFELT	:	
U.S. Application No.: 10/296,487	:	
PCT No.: PCT/US01/16454	:	COMMUNICATION
Int. Filing Date: 22 May 2001	:	
Priority Date: 13 April 2001	:	
Attorney Docket No.: 3US972611	:	
For: DOSDROP AND DOSDROP MICROLITER	:	
DOSAGE SYSTEM	:	

This communication is in response to applicant's correspondence filed 07 October 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 August 2003, applicant was mailed a communication advising applicant that a review of the International Preliminary Examination Report (Form PCT/IPEA/409) for the corresponding international application (PCT/US01/16454) found that not all of the claims contained therein satisfy the provisions of PCT Article 33 (1)-(4) and therefore applicant was required to provide a payment of $305.00 prior to midnight 13 October 2003. Applicant was further advised that failure to timely provide this payment of the remainder of the full, U.S. Basic national fee would result in the application being considered abandoned as to the United States of America.

On 07 October 2003, applicant filed the present correspondence accompanied by a new Form PCT/IPEA/409 mailed 30 September 2003.

DISCUSSION

A review of applicant's filing finds a "Communication in Cases For Which no Other Form is Applicable (Form PCT/RO/132) mailed 30 September 2003 stating that the original Form PCT/IPEA/409 mailed 13 June 2003 is vacated and replaced by a corrected Form PCT/IPEA/409. A review of the corrected IPER shows that the claims meet the criteria set out in PCT Article 33 (1)-(4). As such, applicant's payment of $50.00 on 22 November 2002 satisfied payment of the full, U.S. Basic national fee. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

This application will be given an international application filing date of 22 May 2001 and a date of **30 September 2003** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF ACCEPTANCE UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/30/05

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6855845

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The spelling correction has no new matter in the title.

SPE

1625
Art Unit

PTO/SB/44 (02-01)
Approved for use through 1/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Action 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 : 6,855,845 B2

DATED : February 15, 2005

INVENTOR(S) : Masaki NAGAI et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the TITLE, replace "BROMOISOPHITHALIC" with --BROMOISOPHTHALIC--.

On the cover, col. 1, before "(51) **Int. Cl.**[7] ..... **C07C 69/76**; C07C 51/42;" insert --(30) **Foreign Application Priority Data**
Jun. 5, 2000 (JP) .....JP 2000-167511--.

MAILING ADDRESS OF SENDER: OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

PATENT NO. _____

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

OIPE JC25
APR 07 2005
PATENT & TRADEMARK OFFICE

COPY

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 6,855,845 B2 10,296,500

Issue Date: February 15, 2005

Inventor(s): Masaki NAGAI et al.

Title: PROCESS FOR PREPARING BROMOISOPHTHALIC ACID COMPOUND

Docket No.: 114317

REQUEST FOR CERTIFICATE OF CORRECTION UNDER RULE 322

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is respectfully requested that a Certificate of Correction be issued in order to correct the errors specified in the attached copy of Certificate of Correction Form PTO-1050. In the Certificate of Correction Form PTO-1050, the title is amended and foreign application priority data is added.

With respect to the addition of the priority data, it is respectfully submitted that patentees satisfied all requirements of 35 U.S.C. §119 regarding their claim for foreign priority during prosecution of the application that matured into to above-identified patent, and thus the issued patent should correctly reflect the priority data.

A priority claim to Japanese Patent Application No. JP 2000-167511 was timely filed in the application that matured into the above-identified patent, and the claim was acknowledged by the U.S. Patent and Trademark Office in the papers mailed on April 19, 2004 and October 19, 2004. The application that matured into the above-identified patent was a national stage of International Application PCT/JP01/04532. As indicated in the August 23, 2001 Form PCT/IB/304 (copy attached), the International Bureau received a certified copy of the priority document on July 6, 2001. As indicated in the December 13, 2001 Form PCT/IB/308 (copy attached), the International Bureau transmitted a copy of the International Application to the Patent Office on December 13, 2001. Because a certified copy of the priority document was timely and properly filed in the International Application and the International Application was forwarded to the Patent Office, it is respectfully submitted that all requirements of 35 U.S.C. §119 have been satisfied and the foreign

application priority data should be shown on the issued patent.

With respect to the amendment to the title, it is submitted that a typographical error was introduced to the title during publication of the above-identified patent.

It is believed that the errors are on the part of the Patent Office, and therefore no fee is due in relation to this matter in accordance with the provisions of 37 C.F.R. §1.322. However, should any fee be due, please charge the same against Deposit Account No. 15-0461 in order to ensure prompt issuance of a Certificate of Correction.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Julie M. Seaman
Registration No. 51,156

JAO:JMS/jms

Attachments:
Form PTO-1050
Form PCT/IB/308
Form PCT/IB/304

Date: April 7, 2005

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTICE INFORMING THE APPLICANT OF THE COMMUNICATION OF THE INTERNATIONAL APPLICATION TO THE DESIGNATED OFFICES

(PCT Rule 47.1(c), first sentence)

To:
HANABUSA, Tsuneo
c/o Hanabusa Patent Office,
Ochanomizu Square B
6, Kandasurugadai 1-chome
Chiyoda-ku, Tokyo 101-0062
JAPON

Date of mailing (day/month/year) 13 December 2001 (13.12.01)	
Applicant's or agent's file reference HP160	IMPORTANT NOTICE

International application No.	International filing date (day/month/year)	Priority date (day/month/year)
PCT/JP01/04532	30 May 2001 (30.05.01)	05 June 2000 (05.06.00)

Applicant
NISSAN CHEMICAL INDUSTRIES, LTD. et al

1. Notice is hereby given that the International Bureau has communicated, as provided in Article 20, the international application to the following designated Offices on the date indicated above as the date of mailing of this notice:
   KR,US

   In accordance with Rule 47.1(c), third sentence, those Offices will accept the present notice as conclusive evidence that the communication of the international application has duly taken place on the date of mailing indicated above and no copy of the international application is required to be furnished by the applicant to the designated Office(s).

2. The following designated Offices have waived the requirement for such a communication at this time:
   CN,EP

   The communication will be made to those Offices only upon their request. Furthermore, those Offices do not require the applicant to furnish a copy of the international application (Rule 49.1(a-bis)).

3. Enclosed with this notice is a copy of the international application as published by the International Bureau on
   13 December 2001 (13.12.01) under No. WO 01/94289

REMINDER REGARDING CHAPTER II (Article 31(2)(a) and Rule 54.2)

If the applicant wishes to postpone entry into the national phase until 30 months (or later in some Offices) from the priority date, a demand for international preliminary examination must be filed with the competent International Preliminary Examining Authority before the expiration of 19 months from the priority date.

It is the applicant's sole responsibility to monitor the 19-month time limit.

Note that only an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II has the right to file a demand for international preliminary examination (at present, all PCT Contracting States are bound by Chapter II).

REMINDER REGARDING ENTRY INTO THE NATIONAL PHASE (Article 22 or 39(1))

If the applicant wishes to proceed with the international application in the national phase, he must, within 20 months or 30 months, or later in some Offices, perform the acts referred to therein before each designated or elected Office.

For further important information on the time limits and acts to be performed for entering the national phase, see the Annex to Form PCT/IB/301 (Notification of Receipt of Record Copy) and the PCT Applicant's Guide, Volume II.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. (41-22) 740.14.35	Authorized officer J. Zahra Telephone No. (41-22) 338.91.11

08 MAY 2003

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Kathleen E. Marsman
Borden Ladner Gervais, LLP
World Exchange Plaza
100 Queen Street, Suite 100
Ottawa, ON K1P 1J9
Canada

In re Application of THOMPSON, et al. U.S. Application No.: 10/296,507 PCT No.: PCT/CA01/00717 Int. Filing Date: 18 May 2001 Priority Date: 24 May 2000 Attorney Docket No.: PAT 460W-2 US For: SCANNING KELVIN MICROPROBE SYSTEM AND PROCESS FOR ANALYZING A SURFACE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 February 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in paying the total national fee was unintentional" is being interpreted to mean 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. If this is an incorrect reading of applicant's statement applicant should contact the Office of PCT Legal Administration immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **23 February 2003**.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

30 JUL 2003

COMMISSIONER FOR PATENTS
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Kathleen E. Marmsna
BORDEN LADNER GERVAIS LLP
World Exchange Plaza
100 Queen Street, Suite 1100
Ottawa, ON K1P 1J9 Canada

In re Application of
THOMPSON, Michael *et al*
U.S. Application No.: 10/296,508
PCT No.: PCT/CA01/00716
Int. Filing Date: 18 May 2001
Priority Date: 24 May 2000
Attorney's Docket No.: PAT 209W-2
For: SCANNING KELVIN MICROPROBE SYSTEM AND PROCESS FOR BIOMOLECULE MICROASSAY

DECISION

The "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.137(b)" filed on 28 February 2003 in the above-captioned application is hereby **GRANTED** as follows:

The statement that "[t]he entire delay in paying the total national fee was UNINTENTIONAL" has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). If this is an incorrect interpretation, applicants are requested to notify this office. The petition fee of $650.00, the basic national fee of $445.00 and a surcharge fee of $65.00 have been charged to counsel's Deposit Account No. 50-1593 as authorized. No terminal disclaimer is required. All requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration in compliance with 37 CFR 1.497(a) and (b) was included with the instant petition. Thus, applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 May 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 28 February 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

17 FEB 2004

#5

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Womble Carlyle Sandridge & Rice
PO Box 7037
Atlanta, GA 30357-0037

In re Application of ESS, Milko et al. Application No.: 10/296,520 PCT No.: PCT/EP01/05823 Int. Filing Date: 21 May 2001 Priority Date: 24 May 2000 Attorney Docket No.: D078 1180.1 For: COMPOSITION BASED ON RENEWABLE RAW MATERIALS	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to "Petition To Reset Period For Response Due To Late Receipt of Action," which has been treated as a petition under 37 CFR 1.181 for the reasons set forth below. No petition fee is due.

BACKGROUND

On 21 May 2001, applicants filed international application PCT/EP01/05823. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 November 2001. A demand for international preliminary examination was filed on 17 December 2001.

On 25 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 16 April 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 06 November 2003, applicants filed a petition to reset the time for reply.

DISCUSSION

A review of the petition reveals that applicant alleges that the mailed correspondence was never received. Rather, applicant is acting on a copy of the Notification of Missing Requirements sent to applicant on 30 October 2003, by facsimile. The petition is being treated as a petition to withdraw the holding of abandonment for nonreceipt of the office action.

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not*

Received, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Item (1) has not been satisfied. Though Cheryl West states that the Notification of Missing Requirement was not received, practitioner has not stated this.

As to (2), practitioner does not state that a search of the file jacket and docket records indicates that the Office action was not received.

As to (3), practitioner must provide a copy of the docket record where the nonrecieved Office communication would have been entered had it been received and docketed and reference the docket record in the practitioner's statement. "For example, if a three month period for reply was set in the nonreceived Office Action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." MPEP §711.03(c) para. II.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

05 MAR 2004

#7

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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Womble Carlyle Sandridge & Rice
PO Box 7037
Atlanta, GA 30357-0037

In re Application of	:	
ESS, Milko et al.	:	
Application No.: 10/296,520	:	DECISION ON
PCT No.: PCT/EP01/05823	:	
Int. Filing Date: 21 May 2001	:	PETITION
Priority Date: 24 May 2000	:	
Attorney Docket No.: D078 1180.1	:	UNDER 37 CFR 1.181
For: COMPOSITION BASED ON	:	
RENEWABLE RAW MATERIALS	:	

This decision is in response to "Renewed Petition Under 37 CFR 1.181," filed with the United States Patent and Trademark Office on 01 March 2004.

BACKGROUND

On 21 May 2001, applicants filed international application PCT/EP01/05823. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 November 2001. A demand for international preliminary examination was filed on 17 December 2001.

On 25 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 16 April 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 06 November 2003, applicants filed a petition to reset the time for reply.

On 17 February 2004, the Office mailed decision on petition, dismissing applicant's petition without prejudice.

On 01 March 2004, applicants submitted "Renewed Petition Under 37 CFR 1.181".

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the

practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1), (2) and (3) have been satisfied. Practitioner states that the Notification of Missing Requirements was not received. Practitioner states that a search of the file jacket and docket records indicates that the Notification was not received. Practitioner has furnished a copy of the docket records where the Notification would have been entered had it been received and has referenced the docket record in practitioner's statement.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 16 April 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including mailing of a new Notification of Missing Requirements (Form PCT/DO/EO/905).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

22 FEB 2005

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kia Silverbrook
Silverbrook Research
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of SILVERBROOK et al. Application No.: 10/296,522 PCT No.: PCT/AU00/00516 Int. Filing Date: 24 May 2000 Priority Date: None Attorney Docket No.: PEC01US For: PRINT ENGINE/CONTROLLER AND PRINTHEAD INTERFACE CHIP INCORPORATING THE ENGINE/ CONTROLLER	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 01 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

29 APR 2004

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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Managing Director
Silverbrook Research Pty Ltd.
393 Darling Street
Balmain NSW 2041 AUSTRALIA

In re Application of KIA SILVERBROOK Application No.: 10/296,523 PCT No.: PCT/AU00/00594 Int. Filing Date: 24 May 2000 Priority Date: None Attorney Docket No.: PAK04US For: LAMINATED INK DISTRIBUTION ASSEMBLY FOR A PRINTER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 July 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $520 (small entity) has been provided. The required petition fee of $650 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The $65 surcharge for filing the oath or declaration after the thirty month period was paid. The 35 U.S.C. 371(c)(1),(c)(2) and (c)(4) date is **07 July 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

Telephone: (703) 306-5467
Facsimile : (703) 308-6459

25 AUG 2005

#9

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Managing Director
Silverbrook Research Pty Ltd
393 Darling Street
Balmain, NSW 2041
AUSTRALIA

In re Application of:	:	
SILVERBROOK, Kia	:	
U.S. Application No.: 10/296,524	:	DECISION ON PETITION
PCT No.: PCT/AU00/00598	:	FOR REVIVAL UNDER
International Filing Date: 24 May 2000	:	37 CFR 1.137(b)
Priority Date: None	:	
Attorney's Docket No.: PAK08US	:	
For: PAPER THICKNESS SENSOR IN A PRINTER	:	

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b), filed 01 July 2005.

BACKGROUND

In July 2003, in the present abandoned application, the USPTO received payment of the basic national fee and a petition fee for a petition for revival under 37 CFR 1.137(b). However, the application file does not contain a copy of any petition that might have been submitted with such fees.

On 01 July 2005, applicant filed the Petition for Revival under 37 CFR 1.137(b) considered herein.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The remaining item here is the required petition fee. As noted above, the USPTO has received a petition fee herein which can be applied to the present petition. However, the previously paid petition fee is in the amount of $1,300, the appropriate petition fee at the time such fee was submitted in July 2003. Unfortunately, the fee for a petition for revival under 37 CFR 1.137(b) has since been raised to its present level of $1,500. Thus, while the previously filed petition fee of $1,300 can be applied to the present Petition for Revival, filed 01 July 2005,

an additional $200 is required to complete payment of the applicable fee.[1] Until this additional $200 fee payment is received, item (2) of a grantable petition is not satisfied.

Payment of this additional $200 in fees can be avoided if applicant submits evidence confirming the original filing of a Petition for Revival in July 2003 (in which case, the appropriate petition fee would be the $1,300 fee submitted at that time). Adequate evidence of the previous filing would include a copy of the previously filed petition, a statement confirming that the attached document is a true copy of the materials originally filed in July 2003, and evidence of such filing (e.g., a copy of a return postcard itemizing the petition and bearing a USPTO receipt stamp).

CONCLUSION

Applicant's Petition For Revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and include the additional $200 required to complete payment of the applicable petition fee or acceptable evidence confirming the filing of the earlier Petition for Revival in July 2003, as discussed above.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, 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

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

[1] Pursuant to 35 U.S.C. 41(a), the proper petition fee due is the fee in effect "on filing."

27 SEP 2005

#6

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Managing Director
Silverbrook Research Pty Ltd
393 Darling Street
Balmain, NSW 2041
AUSTRALIA

In re Application of:	:	
SILVERBROOK, Kia	:	
U.S. Application No.: 10/296,524	:	DECISION ON RENEWED
PCT No.: PCT/AU00/00598	:	PETITION FOR REVIVAL
International Filing Date: 24 May 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: None	:	
Attorney's Docket No.: PAK08US	:	
For: PAPER THICKNESS SENSOR IN A PRINTER	:	

In a decision mailed on 25 August 2005, applicant's petition under 37 CFR 1.137(b) was dismissed without prejudice for failure to submit all the requirements of a grantable petition. Specifically, applicant had not submitted the full applicable petition fee (applicant's $1300 fee payment was $200 under the required $1500).

On 25 September 2005, applicant filed the renewed petition considered herein. The renewed petition was accompanied by a payment of the $200 required to complete the petition fee. Applicant has therefore satisfied all the requirements for a grantable petition under 37 CFR 1.137(b).

The renewed petition for revival under 37 CFR 1.137(b) is **GRANTED**.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) is 07 July 2003 (the date USPTO records indicate receipt of the applicable $1,060 basic national fee).

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Mr. K. Silverbrook
SILVERBROOK RESEARCH PTY LTD
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of WALMSLEY, Simon Robert U.S. Application No.: 10/296,525 PCT No.: PCT/AU00/00511 Int. Filing Date: 24 May 2001 Priority Date: 24 May 2000 Attorney Docket No.: PEC03US For: PRINT ENGINE/CONTROLLER WITH COLOR MASK	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

This decision is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 01 August 2003 which is hereby **GRANTED** as follows:

The petition to revive fee of $1,300 and the basic national fees totaling $1,332.00 have been paid with the instant petition. Applicant states that "[t]he entire delay in filing the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted on 23 November 2002.

The requirements for acceptance under 35 U.S.C. 371(c) have been completed. The application has an international filing date of 24 May 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 01 August 2003.

This application is being forwarded to the National Stage Processing Division for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

22 AUG 2003

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Kia Silverbrook
393 Darling Street
Balmain, NSW 2041
Australia

In re Application of
Silverbrook
US Application No.: 10/296,526
PCT Application No.: PCT/AU00/00596
International Filing Date: 24 May 2000
Priority Date: 24 May 2000
Attorney's Docket No.: PAK06US
For: PRINTHEAD CAPPING ARRANGEMENT

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b), filed on 1 August 2003 in the above-captioned application, is hereby **GRANTED** as follows.

BACKGROUND

On 24 May 2000, Applicant filed international application PCT/AU00/00596. A copy of the international application was communicated from the International Bureau to the USPTO on 29 November 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 14 September 2001, prior to 24 December 2001, the end of 19 months from the 24 May 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 24 November 2002.

On 23 November 2002, Applicant filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390), accompanied by a declaration and an authorization for the USPTO to charge the basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(a)(3) to a credit card. The charge invoice was declined. The basic national fee was not paid on or before 25 November 2002 (Monday). The international application became abandoned as to the United States on 25 November 2002.

The instant petition encloses, *inter alia*:

(1) An authorization to charge $1,080 to a credit card for the $1,060 basic national fee (the $20 overcharge has been credited to the same credit card);

(2) The $1,300 petition fee;

(3) A statement to the effect that the entire delay in filing a proper oath or declaration from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

CONCLUSION

In view of the above, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

A review of the declaration submitted on 23 November 2002 reveals that it complies with 37 CFR 1.497(a) and (b). Applicant has met the requirements of 37 CFR 1.495 for acceptance into the national stage under 35 U.S.C. 371(c). Consequently, the application has an international filing date of 24 May 2000, and a 35 U.S.C. 371 date of 1 August 2003.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

10 FEB 2005

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AUTOMATIC IMPULSE MACHINE DESIGN INC
LAWRENCE C EDELMAN, IP COUNSEL
1 CORY RD
MORRIS TOWNSHIP NJ 07960

In re Application of	:	
CHIRNOMAS, Munroe	:	DECISION ON
Application No.: 10/296,529	:	
PCT No.: PCT/US01/16583	:	REQUEST FOR REFUND
Int. Filing Date: 23 May 2001	:	
Priority Date: 23 May 2000	:	
Attorney's Docket No.: 01PA13PCT/US	:	
For: METHOD AND APPARATUS FOR	:	
INCLUDING ARTICLE IDENTIFICATION IN AN	:	
ARTICLE HANDLING DEVICE	:	

This is a decision on applicant's request for refund filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 07 May 2003.

BACKGROUND

On 23 May 2001, applicants filed international application PCT/US01/16853, which designated the United States and claimed a priority date of 23 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 March 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 December 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 November 2002 (23 November 2002 being a Saturday).

On 23 November 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee of $710 under 37 CFR 1.492(a)(1).

On 07 May 2003, applicant submitted the instant request for refund stating that Deposit Account 50-1960 was incorrectly charged $165 for the above-identified application on 20 March 2003.

On 18 May 2004, a communication was sent from the USPTO Office of Finance indicating that the refund request was denied because no search report had yet been published.

DISCUSSION

On 20 March 2003, the basic national fee under 37 CFR 1.492(a)(1) (where an international preliminary examination fee has been paid to the USPTO) was switched to the basic national fee under 37 CFR 1.492(a)(3) (where no international preliminary examination fee and no international search fee has been paid to the USPTO) and the balance of $165 between the two fees was charged to Deposit account 50-1960. This transaction was incorrect. Applicant paid the international preliminary examination fee to the USPTO on 21 December 2001. Thus, the correct basic national fee is the fee set forth in 37 CFR 1.492(a)(1). Accordingly, Deposit Account 50-1960 will be credited $165. Also, the communication from the USPTO Office of Finance mailed 18 May 2004 is hereby VACATED.

CONCLUSION

The request for refund under 37 CFR 1.26 is **GRANTED** for the reasons set forth above.

The communication from the USPTO Office of Finance mailed 18 May 2004 is VACATED for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
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PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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OFFICE OF PETITIONS

LAWRENCE C. EDELMAN, ESQ.
IP COUNSEL, AUTOMATIC IMPULSE
MACHINE DESIGN
3 BUFFALO RUN
EAST BRUNSWICK NJ 08816

In re Application of	:	
Munroe CHIRNOMAS	:	
Application No. 10/296,529	:	DECISION ON PETITION
Filed: November 23, 2002	:	
Docket No. 01PA13PCT/US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 6, 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 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 an amendment, (2) the petition fee of $810; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3651 for appropriate action by the Examiner in the normal course of business on the reply received January 5, 2010.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

25 AUG 2005

#9

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393 Darling Street
Balmain, NSW 2041
AUSTRALIA

In re Application of:	:	
SILVERBROOK, Kia	:	
U.S. Application No.: 10/296,534	:	DECISION ON PETITION
PCT No.: PCT/AU00/00592	:	FOR REVIVAL UNDER
International Filing Date: 24 May 2000	:	37 CFR 1.137(b)
Priority Date: None	:	
Attorney's Docket No.: MJ63US	:	
For: INK JET PRINTHEAD NOZZLE ARRAY	:	

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b), filed 01 July 2005.

BACKGROUND

In July 2003, in the present abandoned application, the USPTO received payment of the basic national fee and a petition fee for a petition for revival under 37 CFR 1.137(b). However, the application file does not contain a copy of any petition that might have been submitted with such fees.

On 01 July 2005, applicant filed the Petition for Revival under 37 CFR 1.137(b) considered herein.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The remaining item here is the required petition fee. As noted above, the USPTO has received a petition fee herein which can be applied to the present petition. However, the previously paid petition fee is in the amount of $1,300, the appropriate petition fee at the time such fee was submitted in July 2003. Unfortunately, the fee for a petition for revival under 37 CFR 1.137(b) has since been raised to its present level of $1,500. Thus, while the previously filed petition fee of $1,300 can be applied to the present Petition for Revival, filed 01 July 2005,

an additional $200 is required to complete payment of the applicable fee.[1] Until this additional $200 fee payment is received, item (2) of a grantable petition is not satisfied.

Payment of this additional $200 in fees can be avoided if applicant submits evidence confirming the original filing of a Petition for Revival in July 2003 (in which case, the appropriate petition fee would be the $1,300 fee submitted at that time). Adequate evidence of the previous filing would include a copy of the previously filed petition, a statement confirming that the attached document is a true copy of the materials originally filed in July 2003, and evidence of such filing (e.g., a copy of a return postcard itemizing the petition and bearing a USPTO receipt stamp).

CONCLUSION

Applicant's Petition For Revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and include the additional $200 required to complete payment of the applicable petition fee or acceptable evidence confirming the filing of the earlier Petition for Revival in July 2003, as discussed above.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, 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

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

[1] Pursuant to 35 U.S.C. 41(a), the proper petition fee due is the fee in effect "on filing."

27 SEP 2005

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Managing Director
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AUSTRALIA

In re Application of:	:	
SILVERBROOK, Kia	:	
U.S. Application No.: 10/296,534	:	DECISION ON RENEWED
PCT No.: PCT/AU00/00592	:	PETITION FOR REVIVAL
International Filing Date: 24 May 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: None	:	
Attorney's Docket No.: MJ63US	:	
For: INK JET PRINTHEAD NOZZLE ARRAY	:	

In a decision mailed on 25 August 2005, applicant's petition under 37 CFR 1.137(b) was dismissed without prejudice for failure to submit all the requirements of a grantable petition. Specifically, applicant had not submitted the full applicable petition fee (applicant's $1300 fee payment was $200 under the required $1500).

On 25 September 2005, applicant filed the renewed petition considered herein. The renewed petition was accompanied by a payment of the $200 required to complete the petition fee. Applicant has therefore satisfied all the requirements for a grantable petition under 37 CFR 1.137(b).

The renewed petition for revival under 37 CFR 1.137(b) is **GRANTED**.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) is 07 July 2003 (the date USPTO records indicate receipt of the applicable $1,060 basic national fee).

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27 AUG 2003

Mr. K. Silverbrook
SILVERBROOK RESEARCH PTY LTD
393 Darling Street
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Australia

In re Application of
LAPSTUN, Paul *et al*
U.S. Application No.: 10/296,535
PCT No.: PCT/AU00/00517
Int. Filing Date: 24 May 2000
Priority Date: 24 May 2000
Attorney Docket No.: PEC02US
For: PRINTED PAGE TAG ENCODER

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 01 August 2003 which is hereby **GRANTED** as follows:

The petition to revive fee of $1,300 and the basic national fees totaling $1,288.00 have been paid with the instant petition. Applicants state that "[t]he entire delay in filing the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted on 23 November 2002.

The requirements for acceptance under 35 U.S.C. 371(c) have been completed. The application has an international filing date of 24 May 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 01 August 2003.

This application is being forwarded to the National Stage Processing Division for continued processing.

James Thomson
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Date :05/16/07

Patent No. : 7070098 B1
Ser. No. : 10/296,535
Inventor(s) : LAPSTUN, PAUL
Issued : 07/04/06
Title : **PRINTED PAGE TAG ENCODER**
Docket No. : PEC02US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

K. Silverbrook
Managing Director Silverbrook Research Pty
393 Darling Street
Balmain NSW 2-041 AU AUSTRALIA

LMN

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K. SILVERBROOK
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OFFICE OF PETITIONS

In re Patent No. 7,070,098	:	
Application No. 10/296,535	:	
Filed: November 23, 2002	:	ON PETITION
Issued: July 4, 2006	:	
Attorney Docket No. PEC02US	:	

This is a decision on the petition filed October 31, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

12 DEC 2003
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#15

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Kia Silverbrook
Silverbrook Research
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Balmain, NSW
AUSTRALIA

In re Application of	:	
Silverbrook	:	
Application No. 10/296,536	:	DECISION ON
PCT No.: PCT/AU00/00591	:	
Int. Filing Date: 24 May 2000	:	PETITION UNDER
Priority Date: NONE	:	
Atty. Docket No.: MJ62	:	37 CFR 1.137(b)
For: Fluidic Seal For An Ink	:	
Jet Nozzle Assembly	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 01 August 2003.

BACKGROUND

This international application was filed on 24 May 2000, claimed no earlier priority date, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 29 November 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 25 November 2002 (since 24 November 2002 was a Sunday). This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee, as indicated in the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 22 May 2003.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **23 November 2002**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
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FEB 25 2009

OFFICE OF PETITIONS

In re Application of
Hans Hallstadius
Application No. 10/296,543
Filed: November 25, 2002
Attorney Docket No. 1027651-000142

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2009, 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/Amendment/IDS; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed May 19, 2008, 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 1797 for appropriate action by the Examiner in the normal course of business on the reply received January 29, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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3000 K STREET NW
WASHINGTON DC 20007

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JAN 30 2004

OFFICE OF PETITIONS

In re Application of	:
Guido Kurz et al	:
Application No. 10/296,552	: DECISION GRANTING PETITION
Filed: April 1, 2003	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 039196-0106	:

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter will be referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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In re Application of	:	
Barf et al.	:	DECISION ON PETITION
Application No. 10/296,553	:	
Filed: February 18, 2003	:	
Atty Docket No. 14108-100US1	:	

This is a decision on the "PETITION TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION IN ACCORDANCE WITH M.P.E.P. §710.06," filed August 22, 2005. Given the arguments on petition, the petition is also being treated as a petition to withdraw the holding of abandonment under 37 CFR §1.181. This petition was recently forwarded to the undersigned for consideration.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicants may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. §1.137(a)" or "Petition under 37 C.F.R. §1.137(b)," as appropriate.

The above-identified application became abandoned for failure to file a timely and proper response to the Office letter mailed January 10, 2005. This letter set a one (1) month period for reply, with extensions of time obtainable under §1.136(a). No response having been received and no extension obtained, the

above-identified application became abandoned on February 11, 2005. A courtesy Notice of Abandonment was mailed on August 8, 2005.

In response, applicants filed the instant petition requesting resetting of the period for response and re-mailing of the Office action for late receipt of an Office action, as provided for in MPEP §710.06. However, applicants argued that their failure to respond was due to never having received the Office action. The petition included a paper with the subject "Pto Mail log from Dates 1/10/05 - 1/24/05," a log of all mail received from the USPTO during this period.

Because applicants are maintaining that they never received the Office action a request for relief for late receipt pursuant to MPEP §710.06 is improper. As acknowledged by applicants, based on not receiving the Office action they could not meet the requirements of this provision that i) the petition be filed within 2 weeks of receipt of the Office action, or ii) provide evidence of the date of receipt of the Office action.

The proper basis for consideration of this petition is 37 CFR 1.181 for withdrawal of a holding of abandonment based on non-receipt of an Office action. There is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. 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 petition includes a statement by patent attorney Richard Peet that the Office action was not received. However, the petition does not include an assertion that a search of the file jacket and docket record indicates that the Office communication was not received. Further it is unclear whether the mail log is where the Office communication would have been entered had it been received and docketed. The type of docket report required

for this showing is, for example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action. Thus, in this instance, the docket report should reflect a thirty (30) day or one (1) month period for response.

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 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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Paper No.

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In re Application of	:	
Barf et al.	:	DECISION ON PETITION
Application No. 10/296,553	:	
Filed: February 18, 2003	:	
Atty Docket No. 14108-100US1	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 C.F.R. § 1.181," filed August 24, 2006.

The petition under § 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the Office letter mailed January 10, 2005. This letter set a one (1) month period for reply, with extensions of time obtainable under §1.136(a). No response having been received and no extension obtained, the above-identified application became abandoned on February 11, 2005. A courtesy Notice of Abandonment was mailed on August 8, 2005.

By decision mailed July 7, 2006, the initial petition requesting resetting of the period for response and re-mailing of the Office action for late receipt of an Office action, as provided for in MPEP §710.06 was dismissed. Given the arguments on petition it was considered as a petition to withdraw the holding of abandonment for non-receipt of an Office action. However, the petition had to be dismissed because it did not include an adequate showing.

A review of the application file reveals no irregularities in the mailing of the Office action mailed January 10, 2005. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. 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 has now supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed August 8, 2005 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 1626 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 Office communication mailed January 10, 2005 and for restarting of the period for reply.

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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New York NY 10036

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MAR 28 2008

OFFICE OF PETITIONS

In re Patent No. 7,261,620	:
Issued : August 28, 2007	: DECISION ON APPLICATION
Application No. 10/296,556	: FOR PATENT TERM ADJUSTMENT
Filed: June 6, 2003	:
Atty. Dkt. No.: 20496-354	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705", filed August 27, 2007. This matter is being treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,261,620 on August 28, 2007. The instant request for reconsideration was timely filed August 27, 2007 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 167 days. Patentees argue that the patent is entitled to an adjustment of 284 days. Specifically, patentees argue that the reduction of 120 days is in error and that the correct adjustment in connection with submission of formal drawings after allowance is three days.

At the time of issuance, the adjustments totaling 448 days were properly reduced 281 days for applicants' failure to engage in reasonable efforts to conclude prosecution or processing.

Patentees contest the reduction of 120 days. Patentees argue that drawings were filed September 19, 2006. Patentees argue that the reduction under 37 CFR 1.704(c)(10) in connection with the drawings commenced September 19, 2006, the date the drawings were filed, and ended September 22, 2006, the mailing date of the response to the drawings.

Submission of an amendment under 37 CFR 1.312 or other paper, including drawings, after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing

or examination of an application. *See, Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). *See, also*, MPEP 2732.

The response received September 22, 2006 bore a certificate of mailing date of September 19, 2006. A reply is considered filed on the date of its actual receipt in the Office as defined by 37 CFR 1.6, and the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will not be taken into account for patent term adjustment purposes. *See*, 37 CFR 1.703(f).

Accordingly, the reduction in connection with the drawings began September 22, 2007, the date the drawings were submitted, and ended 120 days later in accordance with 37 CFR 1.704(c)(10)(ii). The Office did not mail a response to the drawing submission on September 22, 2006, as argued by patentees.

In view thereof, the patent is entitled to an overall adjustment of 167 days, as indicated on the patent.

The Office hereby acknowledges receipt of the required patent term adjustment application fee of $200.00.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of the instant decision indicated above. Extensions under 37 CFR 1.136 will not be permitted.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

#4

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Patent and Trademark Dept
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In re Application of MUNSON et al. Application No.: 10/296,563 PCT No.: PCT/EP01/05835 Int. Filing Date: 21 May 2001 Priority Date: 23 May 2000 Attorney's Docket No.: PH/5-31449A For: METHOD FOR MAKING ACYLAMIDES BY SYNTHESIZING AND ACYLATING BENZOXAZINES	DECISION ON PETITION UNDER 37 CFR 1.42

This is a decision on applicants' Response to Notice to File Missing Parts", treated as a petition under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 06 May 2003.

BACKGROUND

On 22 November 2002, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 21 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration and a $130 surcharge for filing the oath or declaration after the 30 month period was required. The notification set a two-month time period in which to respond.

On 06 May 2003, applicants filed a Response to the Notice along with three complete combined declarations and powers of attorney signed by inventors Michael Allen Oliver and Heinz Peter Schwemlein and by Catherine Munson, identified as the legal representative of joint inventor, Robert Eugene Munson (deceased). The submission is treated as a request for status under 37 CFR 1.42.

DISCUSSION

The declarations submitted on 06 May 2003 identify Catherine Munson, as legal representative for deceased co-inventor Robert Eugene Munson and states the country of citizenship, former residency and mailing address of the deceased inventor and the legal representative's country of citizenship, residency and mailing address as required for compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.64. The declarations also identify the inventors as listed on the international application publication. Accordingly, it is appropriate to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c) date is **06 May 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

'19 JUN 2003

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Robert Berliner
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865 South Figueroa
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Los Angeles, CA 90017-2571

In re Application of	:	
HENN, et al.	:	
U.S. Application No.: 10/296,567	:	DECISION ON PETITION
PCT No.: PCT/EP01/04232	:	
Int. Filing Date: 12 April 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 20 May 2000	:	
Attorney Docket No.: LA-7004-103.US	:	
For: METHOD FOR PRODUCING	:	
DOCUMENT CARDS COMPRISING	:	
SEVERAL LAYERS AND DOCUMENT	:	
CARDS PRODUCED THEREWITH	:	

This decision is in response to applicant's "Petition For Revival of an International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 05 May 2003 in the United States Patent and Trademark Office (USPTO). Applicant has provided payment of the $1300.00 petition fee.

BACKGROUND

On 12 April 2001, applicant filed international application PCT/EP01/04232, which claimed priority of an earlier application filed 20 May 2000. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 November 2002.

On 20 November 2002, the present application became abandoned as to the United States for failure to timely provide payment of the full, U.S. basic national fee.

On 21 November 2002, applicant filed a transmittal letter for entering the U.S. national stage under 35 U.S.C. 371 accompanied by payment of the U.S. basic national fee.

On 17 March 2003, applicant was mailed NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and providing a surcharge of $130.00 for providing the oath or declaration later than 30 months

from the earliest priority date. (37 CFR 1.492(e). In addition, applicant was informed of the need to provide a translation of the international application into English and provide payment of the $130.00 processing fee for providing and English translation of the international application later than 30 months from the earliest priority date. Applicant was afforded two months to file a proper response.

On 05 May 2003, applicant filed the present petition to revive accompanied by an executed declaration of the inventors, a translation of the international application into English, an assignment document for recording and authorization to charge all necessary fees.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was payment of the full U.S. Basic National fee. A review of the fee record for the present application shows that applicant provided this payment on 21 November 2002.

As to Item (2), applicant has included the petition fee of $1300.00 along with the present petition.

With regard to Item (3), applicant's statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

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. Further, a review of the present filing reveals that applicant has presently submitted an executed declaration of the inventors, as well as, an English translation of the international application and thus all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

For the reasons stated above, applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **05 May 2003**.

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Attorney Advisor
Office of PCT Legal Administration
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Fax: (703) 308-6459

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#3

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08 MAY 2003

Peter K. Hahn
Luce, Forward, Hamilton & Scripps
600 West Broadway, Suite 2600
San Diego, CA 92101

In re Application of TOHIDI	:	
U.S. Application No.: 10/296,568	:	DECISION ON PETITION
Int. Application No.: PCT/US01/12870	:	
Int. Filing Date: 20 April 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 21 April 2000	:	
Attorney Docket No.: 17984-2/P03	:	
For: WEAR-RESISTANT ARTIFICIAL JOINT	:	

This is in response to applicant's "Petition Under 37 CFR 1.137(b) To Revive An Abandoned International Application" filed 21 November 2002.

BACKGROUND

On 20 April 2001, applicant filed international application PCT/US01/12870, which claimed priority of an earlier United States application filed 21 April 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 November 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 October 2002.

International application PCT/US01/12870 became abandoned as to the United States for failure to timely pay the basic national fee.

On 21 November 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

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delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application has an international filing date of 20 April 2001 and a date under 35 U.S.C. 371(c) of 21 November 2002.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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Ronald E. Greigg
Greigg & Greigg PLLC
1423 Powhatan Street, Unit One
Alexandria, VA 22314

In re Application of HAGER, Bernhard, et al. Application No.: 10/296,580 PCT No.: PCT/DE02/01112 Int. Filing Date: 27 March 2002 Priority Date: 30 March 2001 Attorney's Docket No.: R.40785 For: APPARATUS FOR POSTTREATMENT OF EXHAUST GASES FROM AN INTERNAL COMBUSTION ENGINE	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicants' "Explanation of Signature Used On the Declaration," filed with the United States Patent and Trademark Office on 18 August 2003.

BACKGROUND

On 27 March 2002, applicants filed international application PCT/DE02/01112, which claimed a priority date of 30 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 October 2002. The deadline for entry into the national stage in the United States was midnight 02 December 2002 (30 November 2002 was a Saturday).

On 26 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 14 April 2003, applicants filed a declaration executed by Bernhard Hager, Sven Huber, Gerhard Mueller and Michael Offenhuber.

On 28 May 2003, the Office mailed Notification.

On 18 August 2003, applicants submitted the instant petition and the fee for a one month extension of time.

DISCUSSION

Applicants indicate that the inventors listed on the international application included a typographical error. Specifically, the inventor listed as "Sven Offenhuber" is named "Michael

Offenhuber." Applicants have provided a statement from Mr. Offenhuber indicating that the error occurred without deceptive intent on his part. The petition fee has been paid.

The declarations accompanying the petition do not with 37 CFR 1.497(a)-(b), as they list Sven Offenhuber as an inventor, rather than Michael Offenhuber.

CONCLUSION

For the above reasons, the Petition Under 37 CFR 1.182 is **GRANTED**.

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, 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.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
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0 9 JAN 2004

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In re Application of
HAGER, Bernhard, et al.
Application No.: 10/296,580
PCT No.: PCT/DE02/01112
Int. Filing Date: 27 March 2002
Priority Date: 30 March 2001
Attorney's Docket No.: R.40785
For: APPARATUS FOR POSTTREATMENT OF EXHAUST GASES FROM AN INTERNAL COMBUSTION ENGINE

COMMUNICATION

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. §371.

BACKGROUND

On 19 February 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 08 April 2003, applicants filed a declaration.

On 28 May 2003, the Office mailed Notification, indicating that the declaration did not comply with 37 CFR 1.497(a)-(b). The notification set a two month extendable period for reply.

On 18 August 2003, applicants filed a petition under 37 CFR 1.182 to correct an error in the inventorship of the application.

On 26 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.182, indicating that the petition was granted, but that the declarations did not comply with 37 CFR 1.497(a)-(b), as they listed an incorrect inventor. The decision set a two month extendable period for reply.

On 09 October 2003, the Office mailed Notification of Abandonment indicating that applicants had failed to respond to the Notification of Missing Requirements mailed 19 February 2003.

DISCUSSION

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 09 October 2003, indicating that applicants failed to respond to the Notification of Missing Requirements mailed 19 February 2003, issued in error and is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

27 DEC 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Ronald E. Greigg
Greigg & Greigg PLLC
1423 Powhatan Street, Unit One
Alexandria, VA 22314

In re Application of
HAGER, Bernhard, et al.
Application No.: 10/296,580
PCT No.: PCT/DE02/01112
Int. Filing Date: 27 March 2002
Priority Date: 30 March 2001
Attorney's Docket No.: R.40785
For: APPARATUS FOR POSTTREATMENT OF EXHAUST GASES FROM AN INTERNAL COMBUSTION ENGINE

DECISION

This decision is in response to applicants' submissions filed with the United States Patent and Trademark Office on 23 September 2004.

BACKGROUND

On 27 March 2002, applicants filed international application PCT/DE02/01112, which claimed a priority date of 30 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 October 2002. The deadline for entry into the national stage in the United States was midnight 02 December 2002 (30 November 2002 was a Saturday).

On 26 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 14 April 2003, applicants filed a declaration executed by Bernhard Hager, Sven Huber, Gerhard Mueller and Michael Offenhuber.

On 28 May 2003, the Office mailed Notification requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

On 18 August 2003, applicants submitted a petition and the fee for a one month extension of time.

On 26 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.182, granting applicants' petition, but requiring a declaration in compliance with 37 CFR 1.497(a)-(b).

On 16 January 2004, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements were satisfied on 14 April 2003.

On 23 February 2004, applicants submitted a declaration executed by the inventors.

On 24 March 2004, the Office mailed Decision, vacating the Notification of Acceptance mailed 16 January 2004 and requiring a new declaration by Gerhard Mueller.

On 07 April 2004, the Office mailed Notice of Allowance (Form PTOL-85).

On 19 July 2004, applicant submitted "Response to Decision On Petition Under 37 CFR 1.182," accompanied by a two month extension of time and a declaration executed by Gerhard Mueller.

On 09 August 2004, the Office mailed Notice of Abandonment (Form PTO-1432) indicating that the application went abandoned for failure to pay the issue fee.

On 23 September 2004, applicants submitted a copy of the 19 July 2004 submission and a copy of the declaration submitted 23 February 2004.

DISCUSSION

It is clear from the above sequence of events that the Notice of Allowance was mailed prior to completion of the requirements under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4), necessary to enter the US national phase. As such, the mailing of the Notice of Allowance was improper and is hereby withdrawn. Consequently, the holding of abandonment, as set forth in the Notice mailed 09 August 2004 is **VACATED**.

The 19 July 2004 declaration and the 23 February 2004 declaration, in combination, satisfy 37 CFR 1.497(a)-(b). The declaration submitted on 23 September 2004 is accepted as a copy of the 23 February 2004 declaration that is no longer present in the application.

CONCLUSION

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including mailing of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 19 July 2004.

Thereafter, the application will be forwarded to Technology Center 3700 for further action consistent with this decision, including, if appropriate, the mailing of a new Notice of Allowance.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

24 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Ronald E. Greigg
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1423 Powhatan Street, Unit One
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In re Application of
HAGER, Bernhard, et al.
Application No.: 10/296,580
PCT No.: PCT/DE02/01112
Int. Filing Date: 27 March 2002
Priority Date: 30 March 2001
Attorney's Docket No.: R.40785
For: APPARATUS FOR POSTTREATMENT OF EXHAUST GASES FROM AN INTERNAL COMBUSTION ENGINE

DECISION

This decision is in response to applicants' "Response to Decision on Petition Under 37 CFR 1.182," filed with the United States Patent and Trademark Office on 23 February 2004.

BACKGROUND

On 27 March 2002, applicants filed international application PCT/DE02/01112, which claimed a priority date of 30 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 October 2002. The deadline for entry into the national stage in the United States was midnight 02 December 2002 (30 November 2002 was a Saturday).

On 26 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

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On 28 May 2003, the Office mailed Notification.

On 18 August 2003, applicants submitted a petition and the fee for a one month extension of time.

On 26 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.182, granting applicants' petition, but requiring a declaration in compliance with 37 CFR 1.497(a)-(b).

On 16 January 2004, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements were satisfied on 14 April 2003.

On 23 February 2004, applicants submitted a declaration executed by the inventors.

DISCUSSION

The declaration of Gerhard Mueller contains non-initialed, non-dated alterations on page four. A new oath or declaration executed by the inventor Mueller is required. 37 CFR 1.52(c)(1).

The Notification of Acceptance mailed 16 January 2004 issued in error.

CONCLUSION

The Notification of Acceptance mailed 16 January 2004 is **VACATED**.

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
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A Professional Limited Liability Company
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FACSIMILE TRANSMISSION SHEET

RECEIVED

19 JUL 2004

Legal Staff
International Division

Date: July 19, 2004
To: Erik Pender / PCT Legal
From: Judy Adkins · Office Manager
Re: Bernhard Hager – Serial No. 10/296,580
Based on PCT/DE 02/01112

No. of pages to follow 11

Comments: Ms. Pender:
Please find following our Response; 2 months Ext; Executed Declaration; Copy of PTO decision dated March 24; copy of Notice of Allowance issued in error or prematurely. If any further documentation is necessary, pls contact me at (703) 838-5500. It is my understanding that the Notice of allowance will be vacated. Thanks so much for your cooperation. Regards.
Judy Adkins

The information in this facsimile transmission is intended only for the personal and confidential use of the designated recipients named above. This message may be an attorney-client communication and as such is privileged. If the reader of this message is not the intended recipient named above, you are notified that you have received this document in error and any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this document in error, please notify this office immediately by telephone and return the original message to the above address by mail.

* D C Bar
# Florida Bar
+ Maryland Bar

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Bernhard HAGER et al

Serial No. 10/296,580

Based on PCT/DE 02/01112

Attention:
PCT Mail Stop
Office of PCT Legal Administration
Erin M. Pender

For: Apparatus For Posttreatment of Exhaust Gases from An Internal Combustion Engine

RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.182

Commissioner for Patents
Mail Stop PCT
Washington, D.C. 20231

Sir:

In response to the Decision on Petition Under 37 CFR 1.182 dated March 24, 2004, please find the enclosed:

1) Copy of Decision dated March 24, 2004
2) Executed Declaration of Gerhard Mueller, initialed and dated on page 4
3) Petition for Two-Month Extension of Time

The Commissioner is hereby authorized to charge payment of any or all fees associated with this communication to Deposit Account 07-2100.

Respectfully submitted,

Ronald E. Greigg
Registration No. 31,517
Attorney for Applicants

GREIGG & GREIGG P.L.L.C.
1423 Powhatan Street, Unit One
Alexandria, Virginia 22314
Telephone: (703) 838-5500
Facsimile: (703) 838-5554
Customer No. 02119
Date: July 19, 2004
REG/ja

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Bernhard HAGER et al

Serial No. 10/296,580

Based on PCT/DE 02/01112

Attention:
PCT Mail Stop
Office of PCT Legal Administration
Erin M. Pender

For: Apparatus For Posttreatment of Exhaust Gases from An Internal Combustion Engine

RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.182

Commissioner for Patents
Mail Stop PCT
Washington, D.C. 20231

Sir:

In response to the Decision on Petition Under 37 CFR 1.182 dated March 24, 2004, please find the enclosed:

1) Copy of Decision dated March 24, 2004
2) Executed Declaration of Gerhard Mueller, initialed and dated on page 4
3) Petition for Two-Month Extension of Time

The Commissioner is hereby authorized to charge payment of any or all fees associated with this communication to Deposit Account 07-2100.

Respectfully submitted,

Ronald E. Greigg
Registration No. 31,517
Attorney for Applicants

GREIGG & GREIGG P.L.L.C.
1423 Powhatan Street, Unit One
Alexandria, Virginia 22314
Telephone: (703) 838-5500
Facsimile: (703) 838-5554
Customer No. 02119
Date: July 19, 2004
REG/ja

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

ISSUED in error
no filing date yet !!

NOTICE OF ALLOWANCE AND FEE(S) DUE

RECEIVED
APR - 8

7590 04/07/2004

Ronald E Greigg
Greigg & Greigg
Unit One
1423 Powhattan Street
Alexandria, VA 22314

DOCKETED
BY _____ ON _____
BY NC ON 4/8/04
DUE DATE July 7, 2004
CALL UP _____

EXAMINER
TRAN, BINH Q

ART UNIT	PAPER NUMBER
3748	

DATE MAILED: 04/07/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/296,580	04/14/2003	Bernhard Hager	R.40785	2866

TITLE OF INVENTION: DEVICE FOR THE POST-TREATMENT OF EXHAUST GASES OF AN INTERNAL COMBUSTION ENGINE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1330	$300	$1630	07/07/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

24 MAR 2004

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MAR 26 2004

Ronald E. Greigg
Greigg & Greigg PLLC
1423 Powhatan Street, Unit One
Alexandria, VA 22314

In re Application of
HAGER, Bernhard, et al.
Application No.: 10/296,580
PCT No.: PCT/DE02/01112
Int. Filing Date: 27 March 2002
Priority Date: 30 March 2001
Attorney's Docket No.: R.40785
For: APPARATUS FOR POSTTREATMENT OF EXHAUST GASES FROM AN INTERNAL COMBUSTION ENGINE

DECISION

This decision is in response to applicants' "Response to Decision on Petition Under 37 CFR 1.182," filed with the United States Patent and Trademark Office on 23 February 2004.

BACKGROUND

On 27 March 2002, applicants filed international application PCT/DE02/01112, which claimed a priority date of 30 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 October 2002. The deadline for entry into the national stage in the United States was midnight 02 December 2002 (30 November 2002 was a Saturday).

On 26 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 14 April 2003, applicants filed a declaration executed by Bernhard Hager, Sven Huber, Gerhard Mueller and Michael Offenhuber.

On 28 May 2003, the Office mailed Notification.

On 18 August 2003, applicants submitted a petition and the fee for a one month extension of time.

On 26 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.182, granting applicants' petition, but requiring a declaration in compliance with 37 CFR 1.497(a)-(b).

DOCKETED
BY _____ ON _____
BY NC ON 3/26/04
DUE DATE May 24, 2004
CALL UP _____

On 16 January 2004, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements were satisfied on 14 April 2003.

On 23 February 2004, applicants submitted a declaration executed by the inventors.

DISCUSSION

The declaration of Gerhard Mueller contains non-initialed, non-dated alterations on page four. A new oath or declaration executed by the inventor Mueller is required. 37 CFR 1.52(c)(1).

The Notification of Acceptance mailed 16 January 2004 issued in error.

CONCLUSION

The Notification of Acceptance mailed 16 January 2004 is **VACATED**.

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
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21 MAY 2003

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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William Bak
Howson & Howson
One Spring House Corp. Center
321 Norristown Road, Box 457
Spring House, PA 19477

In re Application of
GARBATY
Application No.: 10/296,597
PCT No.: PCT/EP01/05944
Int. Filing Date: 23 May 2001
Priority Date: 26 May 2000
Attorney Docket No.: JAE29USA
For: DEVICE FOR RECOVERING OIL FROM AN OIL-SLICK ON A STRETCH OF WATER

DECISION ON PAPERS

UNDER 37 CFR 1.42

This is a decision on the papers filed in United States Patent and Trademark Office (USPTO) on 04 April 2003, which are being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 23 May 2001, applicant filed the international application, which claimed a priority date of 26 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 November 2001. A Demand for international preliminary examination in which the United States was elected was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 November 2002.

On 25 November 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee; a copy of the International Search Report; a copy of the International Preliminary Examination Report; a translation of the international application into English; an unsigned combined declaration and power of attorney and a first preliminary amendment.

On 20 March 2003, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing

date. Applicant was afforded two months to file the required response and advised that extensions of time were available pursuant to 37 CFR 1.136(a).

On 04 April 2003, applicant filed the present papers including a combined declaration and power of attorney executed by Helga Garbaty on behalf of deceased inventor Rudolf GARBATY.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 04 April 2003 is executed by Helga Garbaty as the legal representative of the estate of deceased inventor, Rudolf GARBATY. However, the declaration appears to only set forth the residence, post office address and country of citizenship of the deceased inventor, Rudolf GARBATY. 37 CFR 1.497(b)(2) requires that this information be provided for both the deceased inventor and the legal representative. In addition, the combined declaration and power of attorney leaves the impression that there are additional heirs to the estate. Specifically, Stefan, Thomas and Harriet Garbaty. If this is the case, each heir must execute the combined declaration and power of attorney in a separate signature box which also lists their respective residences, post office addresses and countries of citizenship.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is DISMISSED, without prejudice.

Applicant is hereby afforded TWO (2) MONTHS from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard Smith
Legal Examine
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

01 AUG 2003

William Bak
Howson & Howson
One Spring House Corp. Center
321 Norristown Road, Box 457
Spring House, PA 19477

In re Application of
GARBATY
Application No.: 10/296,597
PCT No.: PCT/EP01/05944
Int. Filing Date: 23 May 2001
Priority Date: 26 May 2000
Attorney Docket No.: JAE29USA
For: DEVICE FOR RECOVERING OIL FROM AN OIL-SLICK ON A STRETCH OF WATER

DECISION ON RENEWED PETITION UNDER 37 CFR 1.42

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.42" filed in United States Patent and Trademark Office (USPTO) on 02 June 2003.

BACKGROUND

On 21 May 2003, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 02 June 2003, applicant filed the present renewed request under 37 CFR 1.42 accompanied by a declaration executed by Helga Garbaty, Stefan Garbaty, Thomas Garbaty and Harriet Garbaty as heirs to the estate of the deceased inventor Rudolf Franz Garbaty.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 02 June 2003 is executed by Helga Garbaty, Stefan Garbaty, Thomas Garbaty and Harriet Garbaty as heirs to the estate of the deceased inventor Rudolf Franz Garbaty and provides the heirs' residence, post office address and country of citizenship. In addition, the declaration provides the residence, post office address and country of citizenship of the deceased inventor. In addition, each heir is identified as a legal representative of the estate. The declaration

Application No.: 10/296,597

is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 02 June 2003.

CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 23 May 2001 and a date of **02 June 2003** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Telephone 703-305-0130
Fax: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/28/07

Paper No.: _____

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/296599 Patent No.: 7063658 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Change title and Abstract.

The applicant requested "delete the entire specification and substitute the specification attached hereto." However, a complete specification is not attached. Therefore the specification will not be approved for entry

SPE

3735

Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,063,658 B2

APPLICATION NO.: 10/296,599

ISSUE DATE : June 20, 2006

INVENTOR(S) : Grabowy et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COVER PAGE

In the Title, please delete "TI/P or A1/P", and substitute therefore --Ti/P or Al/P--; and

In the Abstract, please delete the entire Abstract and substitute therefore the Abstract attached hereto.

COLUMN 1 THROUGH COLUMN 5

At column 1, line 1 beginning with the Title through column 5, line 62, please delete the entire Specification and substitute therefore the Specification attached hereto.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Taylor & Aust, P.C.
P.O. Box 560
Avilla, IN 46710

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

09 JAN 2004

#7

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Jeffrey R. Stone
Briggs and Morgan, P.A.
2400 IDS Center, 80 S. 8th St.
Minneapolis, MN 55402

In re Application of BUCHENRIEDER	:	
U.S. Application No.: 10/296,608	:	
PCT Application No.: PCT/DE01/01947	:	DECISION
Int. Filing Date: 22 May 2001	:	
Priority Date Claimed: 24 May 2000	:	
Attorney Docket No.: 32226.50	:	
For: POSITIONING UNIT	:	

This is in response to the papers filed 18 December 2003, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 22 May 2001, applicant filed international application PCT/DE01/01947, which claimed priority of an earlier Germany application filed 24 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 29 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 24 November 2002.

On 21 November 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 March 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 15 April 2003, applicant purportedly filed an executed declaration.

On 03 December 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 18 December 2003, applicant filed the present petition under 37 CFR 1.181.

On 23 December 2003, this Office mailed a communication which stated that the present response lacks specific instructions and is not signed by a registered agent.

DISCUSSION

The signed cover letter of instructions has been located and placed in the application file.

The evidence of record is sufficient to establish that the declaration was originally filed on 15 April 2003. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 15 April 2003, serves as *prima facie* evidence that the declaration was received by the USPTO on 15 April 2003.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 03 December 2003 is hereby VACATED.

The communication mailed 23 December 2003 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 May 2001, and a date under 35 U.S.C. 371(c) of 15 April 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

2 3 DEC 20[illegible]

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Jeffrey R. Stone
Briggs and Morgan, P.A.
2400 IDS Center, 80 S. 8th St.
Minneapolis, MN 55402

In re Application of BUCHENRIEDER	:	
U.S. Application No.: 10/296,608	:	
PCT Application No.: PCT/DE01/01947	:	COMMUNICATION
Int. Filing Date: 22 May 2001	:	
Priority Date Claimed: 24 May 2000	:	
Attorney Docket No.: 32226.50	:	
For: POSITIONING UNIT	:	

This is in response to applicant's facsimile communication dated 10 December 2003.

Applicant is advised that the communication will not be treated because it lacks specific instructions and because it is not signed by a registered agent.

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. The Office of PCT Legal Administration facsimile number is 703-308-6459.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

09 JAN 2004

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Jeffrey R. Stone
Briggs and Morgan, P.A.
2400 IDS Center, 80 S. 8th St.
Minneapolis, MN 55402

In re Application of BUCHENRIEDER	:	
U.S. Application No.: 10/296,608	:	
PCT Application No.: PCT/DE01/01947	:	DECISION
Int. Filing Date: 22 May 2001	:	
Priority Date Claimed: 24 May 2000	:	
Attorney Docket No.: 32226.50	:	
For: POSITIONING UNIT	:	

This is in response to the papers filed 18 December 2003, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 22 May 2001, applicant filed international application PCT/DE01/01947, which claimed priority of an earlier Germany application filed 24 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 29 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 24 November 2002.

On 21 November 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 March 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 15 April 2003, applicant purportedly filed an executed declaration.

On 03 December 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 18 December 2003, applicant filed the present petition under 37 CFR 1.181.

On 23 December 2003, this Office mailed a communication which stated that the present response lacks specific instructions and is not signed by a registered agent.

DISCUSSION

The signed cover letter of instructions has been located and placed in the application file.

The evidence of record is sufficient to establish that the declaration was originally filed on 15 April 2003. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 15 April 2003, serves as *prima facie* evidence that the declaration was received by the USPTO on 15 April 2003.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 03 December 2003 is hereby VACATED.

The communication mailed 23 December 2003 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 May 2001, and a date under 35 U.S.C. 371(c) of 15 April 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Respectfully

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

#4

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17 SEP 2003

Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

In re Application of	:	
Cuthbertson, et al.	:	
Application Serial No.: 10/296,612	:	
PCT No.: PCT/AU01/00605	:	DECISION ON PETITION
Intl. Filing Date: 25 May 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 26 May 2000	:	
Attorney's Docket No: 07301	:	
For: System and Method for Facilitating Payment Over	:	
the Internet or Like Communication Media	:	

This decision is in response to applicants' "PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)", filed 30 July 2003.

BACKGROUND

On 25 May 2001, applicants filed International Application PCT/AU01/00605 which claimed priority to an earlier Australian application filed on 26 May 2000. A copy of the international application was communicated on 29 November 2001 to the United States Patent and Trademark Office from the International Bureau. A demand for international preliminary examination, in which the United States was elected, was filed on 13 December 2001 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee expired on at midnight on 26 November 2002.

On 22 November 2002, applicants filed national stage papers in the United States including, inter alia, a transmittal letter stating that the application was being filed under 35 U.S.C. 371, a copy of the international application, and the oath or declaration. On 30 July 2003, applicants filed the instant petition.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after applicant becomes aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional and (4) a terminal disclaimer (for applications filed before 8 June 1995).

As to item (1), the petition was accompanied by the required reply in the form of an authorization to charge deposit account 19-2555 for the payment of the U.S. Basic National Fee. Accordingly, $1060.00 wll be charged to applicant's deposit account.

As to item (2), the petition is accompanied by the required petition fee.

As to item (3), the petition is accompanied by applicants' 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."

As to item (4), a terminal disclaimer is not required in the present case.

CONCLUSION

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the present application, including according the present application a 35 USC 371 (c) date of 30 July 2003.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 305-0010
Facsimile: (703) 308-6459

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

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9-21-07

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Patent No. : 7,083,701
Ser. No. : 10/296,619
Inventor(s) : Tadahiro Ohmi, et. al.
Issued : August 1, 2006
Title : DEVICE AND METHOD FOR PLASMA PROCESSING, AND SLOW-WAVE PLATE
Docket No. :07043.0025

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.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 111** or (703) 308-8309

Finnegan, Henderson, Farabow,
Garrett & Duner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

ej

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : 09/21/07

Patent No. : 7083701 B2
Ser. No. : 10/296,619
Inventor(s) : OHMI, TADAHIRO
Issued : 08/01/06
Title : **DEVICE AND METHOD FOR PLASMA PROCESSING, AND SLOW-WAVE PLATE**

Docket No. : 07043.0025

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

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By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

LMN

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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AUG 01 2008

In re Patent No. 7,083,701	:	
Issue Date: August 1, 2006	:	
Application No. 10/296,619	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. 07043.0025	:	

This is a decision on the petition filed November 15, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this 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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CHRISTIE, PARKER & HALE
P.O. BOX 7068
PASADENA CA 91109-7068

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Uwe Sommer et al	:
Application No. 10/296,633	:
Filed: November 25, 2002	:
Attorney Docket No. 48730/DBP/M521	:

This is a decision on the petition, filed December 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 29, 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 3634 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Christie, Parker & Hale, LLP

CHRISTIE, PARKER & HALE
P.O. BOX 7068
PASADENA CA 91109-7068

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DEC 20 2004
OFFICE OF PETITIONS

In re Application of
Uwe Sommer et al
Application No. 10/296,633
Filed: November 25, 2002
Attorney Docket No. 48730/DBP/M521

ON PETITION

This is a decision on the petition, filed December 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 29, 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 3634 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CASE # 48730 ACTION
REMINDER DUE DATE
DEADLINE

[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
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/296,633	11/25/2002	Uwe Sommer	48730/DBP/M521	1251

23363 7590 05/02/2006
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER
REDMAN, JERRY E

ART UNIT	PAPER NUMBER
3634	

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060501

DATE : May 1, 2006

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction on Patent No.: 6,920,720

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:

RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER

Jerry Redman
Primary Examiner

SPE: Mr. Chilcot **Art Unit** 3634

19 OCT 2004

#6

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David C. Brezina
LEE MANN SMITH McWILLIAMS SWEENEY & OHLSON
P.O. Box 2786
Chicago, IL 60690

In re Application of	:	
MILLER, Richard	:	
Application No.: 10/296,635	:	
PCT No.: PCT/US01/18201	:	
Int. Filing Date: 04 June 2002	:	**DECISION**
Priority Date: 02 June 2002	:	
Attorney Docket No.: 1095-1088.1	:	
For: INDUCTION HEATING OF RAIL	:	
WELDS	:	

This decision is in response to the "Petition Under 37 CFR §1.182" submitted on 28 September 2004 which has been treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 24 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit in which to respond was set with extensions of time available.

On 29 May 2003, applicant submitted a "Response to Notification of Missing requirements" which was accompanied by, *inter alia*, two PCT Power of Attorney forms.

On 24 February 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/905 mailed 24 March 2003 within the time period set therein.

On 28 September 2004, applicant filed the instant petition which was accompanied by, *inter alia*, an executed declaration.

DISCUSSION

A review of the above-captioned application shows that the application was properly abandoned for failing to respond to the Form PCT/DO/EO/905 within the time period set. The response filed 29 May 2003 containing a copy of the PCT Power of Attorney signed by the President of applicant, Holland Company and applicant and inventor, Richard F. Miller, was insufficient.

In the instant petition, applicant submitted an executed declaration and claims that in response to the Form PCT/DO/EO/905, "[a]n assignment and oath was sent to the inventor on May 19, 2003 as a formal Rule 1.182 request, this was repeated on June 11, 2004, July 30, 2004 and August 11, 2004. No formal "refusal" was received, just ambiguities."

This explanation is not sufficient to withdraw the holding of abandonment.

Applicant should have either submitted a signed declaration in compliance with 37 CFR 1.497(a) and (b), or filed a petition under 37 CFR 1.47(b) for a refusal to cooperate within the time period to respond to the Form PCT/DO/EO/905. It is the obligation of applicant to ensure that all Office time periods are met.

CONCLUSION

Applicant's petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The above-captioned application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No fee is required. Applicant may also wish to consider to revive the above-captioned application pursuant to 37 CFR 1.137(a) or (b).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

15 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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David C. Brezina
LEE MANN SMITH McWILLIAMS SWEENEY & OHLSON
P.O. Box 2786
Chicago, IL 60690

In re Application of	:	
MILLER, Richard	:	
Application No.: 10/296,635	:	
PCT No.: PCT/US01/18201	:	
Int. Filing Date: 04 June 2001	:	**DECISION**
Priority Date: 02 June 2000	:	
Attorney Docket No.: 1095-1088.1	:	
For: INDUCTION HEATING OF RAIL	:	
WELDS	:	

Applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 29 November 2004 is hereby **GRANTED** as follows:

A signed declaration in compliance with 37 CFR 1.497(a) and (b) was filed on 28 September 2004. All fees including the petition fee and surcharge fee have been paid. Applicant states that "[t]he entire delay was unintentional" has been interpreted as meeting the requirements of 37 CFR 1.137(b)(3). If this interpretation is incorrect, applicants should notify the Office. A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 June 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 28 September 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
Richard F. Miller :
Application No. 10/296,635 : DECISION ON PETITION
Filed: 09/28/2004 :
Attorney Docket No. 921095-910671 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 25, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

On January 18, 2007, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed response, the application was held abandoned on April 19, 2007. A Notice of Abandonment was mailed on June 13, 2007.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the Notice of Allowance would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the Notice of Allowance was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. The petition fee is unnecessary and will be refunded to the Deposit Account. The Office acknowledges receipt of payment of the issue and publication fees.

The matter is being referred to the Office of Patent Publication for issuance as a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Bonnie Weiss McLeod
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

In re Application of :
Shinya FUJIWARA et al :
Serial No.: 10/296,638 : DECISION ON PETITION
Filed: November 27, 2002 :
Attorney Docket No.: 046124-5173-US

This is in response to applicants' " Petition to Withdraw Holding of Abandonment and Request for Remailing of Office Action" filed May 20, 2004.

On October 10, 2003, a restriction requirement was mailed. On April 22, 2004, a Notice of Abandonment for failure to timely file a response was mailed to applicants. On May 20, 2004, the present petition was filed. Applicants state that the restriction requirement dated October 10, 2003 was never received.

Applicant's statement and evidence have been considered and reviewed. It is noted that the restriction requirement was mailed to the assignee, Hatori & Co. in Tokyo, rather than to Morgan Lewis & Brockius. Accordingly, the petition is granted.

Petition Granted.

The application has been returned to pending status. The restriction requirement is attached herewith. The shortened statutory period for reply is set to expired ONE MONTH from the mailing of this letter.

Claudia Tsang for
Bruce Kisliuk
Director, Technology Center 1600

20 APR 2005

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Managing Director
Silverbrook Research Pty
393 Darling Street
Balmain NSW 2041, 2041
Australia

In re Application of SILVERBROOK, Kia Application No.: 10/296,660 PCT No.: PCT/AU00/00583 Int. Filing Date: 24 May 2000 Priority Date: None Docket No.: MJ34US For: METHOD OF FABRICATING ... UV CURABLE TAPE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 01 August 2003 is **GRANTED**.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and the petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 01 August 2003 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of:
Augustinus Bader
Serial No.: 10/296,671
Filed: April 23, 2003
Attorney Docket No.: 50125/064001

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR § 1.181(a) filed on May 9, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed September 30, 2004.

A review of the file history shows that the examiner mailed an Office action to applicant on September 30, 2004, setting a three-month statutory time period for reply. On April 25, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that a response to the Office action was timely filed on March 30, 2005, as evidenced by a copy of the reply and a Petition for extension of time, both having thereon a Certificate of Mailing date of March 30, 2005. Copies of checks dated March 30, 2005 and a postcard dated March 30, 2005 are also submitted as proof that a timely reply was filed. A copy of the postcard identifying the papers filed and showing a USPTO date-stamped receipt of April 1, 2005 is also submitted as proof of a response having been filed.

In view of this evidence, applicant is considered to have submitted a timely reply.

Applicant's petition is **GRANTED** .

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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JUN - 8 2005

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P.O. Box 1450
Alexandria, VA 22313-1450
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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of:
Augustinus Bader
Serial No.: 10/296,674
Filed: April 23, 2003
Attorney Docket No.: 50125/064001

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR § 1.181(a) filed on May 9, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed September 30, 2004.

A review of the file history shows that the examiner mailed an Office action to applicant on September 30, 2004, setting a three-month statutory time period for reply. On April 25, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that a response to the Office action was timely filed on March 30, 2005, as evidenced by a copy of the reply and a Petition for extension of time, both having thereon a Certificate of Mailing date of March 30, 2005. Copies of checks dated March 30, 2005 and a postcard dated March 30, 2005 are also submitted as proof that a timely reply was filed. A copy of the postcard identifying the papers filed and showing a USPTO date-stamped receipt of April 1, 2005 is also submitted as proof of a response having been filed.

In view of this evidence, applicant is considered to have submitted a timely reply.

Applicant's petition is **GRANTED** .

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
GRASSHOFF, Helge	:	
Application No. 10/296,685	:	DECISION ON PETITION
Filed: August 4, 2003	:	TO WITHDRAW
Attorney Docket No. **2000P11774**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on October 1, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LERNER GREENBERG & STEMER, LLP**
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

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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.
10/296,688	07/03/2003	Connie L. Erickson-Miller	PS1141	4279

20462 7590 03/16/2006

SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

EXAMINER
POWERS, FIONA

ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
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SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY- UW2220
P.O. BOX 1539
King of Prussia, PA 19406-0939

Date: February 16, 2006
Application No. 10/296,688
Filed: July 3, 2003
Subject: **Thrombopoietin Mimetics**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed October 28, 2005 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of Daniel F. Eppley and Nannan Liu.** 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.

Joseph K. McKane

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

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SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY- UW2220
P.O. BOX 1539
King of Prussia, PA 19406-0939

Date: August 21, 2006
Application No. 10/296,688
Filed: July 3, 2003
Subject: **Thrombopoietin Mimetics**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed August 7, 2006 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application the application was amended and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of Alan T. Price, Anthony N. Shaw and Kenneth Wiggall.** 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.

Fiona T. Powers

FIONA T. POWERS
United States Patent and Trademark Office
Technology Center 1600
Primary Examiner
ART UNIT 1626

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070521

DATE : May 21, 2007

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,160,870

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:

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: Art Unit 1626

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PROPERTY-US, UW2220
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KING OF PRUSSIA PA 19406-0939

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OFFICE OF PETITIONS

In re Patent No. 7,160,870	:	
DUFFY et al.	:	DECISION ON REQUEST
Issue Date: January 9, 2007	:	FOR RECONSIDERATION OF
Application No. 10/296,688	:	PATENT TERM ADJUSTMENT
Filed: July 3, 2003	:	
Attorney Docket No. PS1141	:	

This is a decision on the "REQUEST FOR REINSTATEMENT OF PATENT TERM UNDER 37 CFR §1.705(d)" filed March 1, 2007. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 233 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

On January 9, 2007, the above-identified application matured into U.S. Patent No. 7,160,870. The instant request for reconsideration was timely filed on March 1, 2007. The patent issued with a revised Patent Term Adjustment of 198 days.

Patentees assert that the patent term adjustment should be reduced by 7 days instead of 42 days for filing the Supplemental Declaration on November 29, 2006, after the mailing of the notice of allowance. Specifically, patentees argue:

The Office clearly provided notice in response to the Supplemental Inventor's Declaration no later than December 5, 2006, when the Office published on both the public and private Patent Application Information Retrieval (PAIR) network that the Patent's "Application is Considered Ready for Issue." This publication certainly was the Office's notice to both Applicants and the public that the processing and examination of the application was complete and therefore, prosecution could not have been delayed any time after December 5, 2006. Additionally, the Office provided notice in response to the Supplemental Inventor's Declaration by returning to Applicants a postcard dated November 29, 2006, acknowledging its receipt.

Thus, the maximum reduction of the Patent Term Adjustment should have been 7 days, reflecting the period of time from the date the Supplemental Inventor's Declaration was filed (November 29, 2006) until the date of the Office's notice in response to the Supplemental Inventor's Declaration (December 5, 2006). Accordingly, the maximum total applicant delay of the Patent Term Adjustment should be 95 days instead of 130 days and consequently, the Patent Term Adjustment should be a minimum of 233 days instead of 198 days.

Applicants acknowledge that 35 U.S.C. §154(b)(2)(C) specifies certain objective regulations that may require the Office to reduce the Patent Term Adjustment. However, 35 U.S.C. §154(b)(2)(A) also states, "the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed" (emphasis added). In the present case, the Office erred in reducing the Patent Term Adjustment by a period of 42 days measured from the date the Supplemental Inventor's Declaration was filed (November 29, 2006) to the date of issuance of the Patent (January 9, 2007). No action that delayed issuance or reinitiated prosecution was taken by the Office or submitted by Applicants after December 5, 2006, when the Office published on both the public and private PAIR network that the Patent's "Application is Considered Ready for Issue". Thus, the maximum delay that Applicants' actions caused was 7 days,

> measured from the filing of the Supplemental Inventor's Declaration (November 29, 2006) to the date that the Office published notice in response to the Supplemental Inventor's Declaration (December 5, 2006). The 42 day reduction of the Patent Term Adjustment inexplicably includes the Office's normal time period for printing and issuing the Patent, and not a delay on the part of Applicants. Including this period in the calculation of Applicant's delay is inconsistent with 35 U.S.C. §154(b)(2)(A).

Petition dated 03/01/07, pp. 2-3.

Patentees' arguments have been considered but are not persuasive. Pursuant to 37 CFR 1.704:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: . . . .
>
> (10) 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

Patentees do not dispute that the filing of the Supplemental Declaration is a proper basis for a reduction under 37 CFR 1.704(c)(10). However, patentees argue that the Office should calculate the period of reduction from the date of submission of the Supplemental Declaration, November 29, 2006, to the date that the Office published notice in PAIR in response to the

Supplemental Declaration, December 5, 2006, instead of the date the patent issued, January 9, 2007.

Patentees' interpretation of the word "notice" in 37 CFR 1.704(c)(10) is flawed. The Office reminds patentees that "[t]he action of the Patent and Trademark Office will be based exclusively on the written record in the Office." 37 CFR 1.2. Furthermore, it is clear from the language of 37 CFR 1.704(c)(10) that the period for reduction will end on the mailing date of an Office action or the mailing date of a Notice in response to the paper. The Office needs to have the calculation performed by a computer program using the Office's records of papers mailed and received as recorded in its PALM system to be able to perform the patent term adjustment calculation.

Furthermore, patentees' assertion that beyond the 7 days discussed above there is no evidence of any interference or delay by patentees in the patent issuance process as a result of filing the Supplemental Declaration is also without merit.

In accordance with 37 CFR 1.704(c)(10), the Office properly reduced the period of adjustment by 42 days, the lesser period of the number of days beginning on the date the Supplemental Declaration was filed, November 29, 2006, and ending on the date the patent issued, January 9, 2007.

In view thereof, the patent term adjustment of **198 days** indicated in the patent is correct.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080916

DATE : September 16, 2008

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,160,870

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:

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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Joseph S Tripoli
Thomson Multimedia Licensing Inc
PO Box 5312
Princeton NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of :
Hamilton, et al. :
Application No. 10/296,690 : DECISION ON PETITION
Filed: November 26, 2002 :
Docket No.: RCA 90230 :

This is a decision on the petition under 37 CFR 1.181, filed October 1, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application held abandoned October 4, 2006 for failure to timely submit a properly reply to the final Office action mailed July 3, 2006. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was received. Notice of Abandonment was mailed February 9, 2007.

Petitioners assert non-receipt of the final Office action. Petitioners state that a search of the docket records and file jacket indicated that the final Office action was not received. Petitioners have included a copy of the docket report where the non-received final Office action would have been entered had it been received and docketed. The petition also includes declarations from individuals having first hand knowledge of the facts and circumstances surrounding the non-receipt of the final Office action.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received.

In accordance with MPEP 711.03(c), the showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is

expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

The petition and accompanying documentary evidence have been carefully considered and found convincing. In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 2600 for consideration of the appeal brief filed January 11, 2008.

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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SEP - 1 2004

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of	:
Torhu Nagasaki	:
Serial No.: 10/296711	: PETITION DECISION
Filed: November 27, 2002	:
Attorney Docket No.: 2002-1482A	:

This is in response to the petition under 37 CFR 1.144, filed July 29, 2004, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 on November 27, 2002, and contained claims 1-47. In a first Office action, mailed November 14, 2003, the examiner set forth a restriction requirement under 35 U.S.C. 121 and 372, as follows:

> Group I, claim(s) 1-14, 19-39 all in part , drawn to compounds , method of making, and method of establishing pharmacokinetics wherein the compound has a formula as given by A2.
> Group II, claim(s) 1 -14, 19-39 all in part , drawn to compounds , method of making, and method of establishing pharmacokinetics wherein the compound has a formula as given by B2.
> Group III, claim(s) 1-14, 19-39 all in part , drawn to compounds , method of making, and method of establishing pharmacokinetics wherein the compound has a formula as given by C2.
> Group IV, claim(s) 1 -14, 19-39 all in part , drawn to compounds , method of making, and method of establishing pharmacokinetics wherein the compound has a formula as given by D2.
> Group V, claim(s) 1-14, 19-39 all in part , drawn to compounds , method of making, and method of establishing pharmacokinetics wherein the compound has a formula as given by E2.
> Group VI, claim(s) 1 -14, 19-39 all in part , drawn to compounds , method of making, and method of establishing pharmacokinetics wherein the compound has a formula as given by F2.

Group VII, claim(s), 1-14, 19-39 all in part, drawn to compounds , method of making, and method of establishing pharmacokinetics wherein the compound has a formula wherein the compound has a formula different than in groups I-VI. A further election of a single disclosed species is required.
Group VIII, claim(s) 15, 16, 40 and 41, drawn to a method of screening . A further election of a single disclosed species is required. May be subject to further restriction.
Group IX, claim(s) 17, 18 , drawn to a compound obtained by a screening method. A further election of a single disclosed species is required. May be subject to further restriction.

In the presentation of the reasons for the lack of unity the examiner argued that Groups I-IX lack a "special technical feature" and stated "A preliminary search on the generic claim indicated that the method is known. See the experimental part on page 2246 of M.W. Lindauer et al A method of Tritium labeling, 1961."

On December 3, 2004 , Applicant filed an Election Response and elected Group I with traverse. Applicant also noted that the examiner missed page 5 of the claims which had claims 42-47. Applicant suggested that these claims belonged to Group VIII (which is a non elected group).

The examiner mailed a Non final rejection to applicant on January 22, 2004, in which the examiner responded to applicant's traversal and cited 102(b) art references against the compound and the process of preparation. The examiner made the lack of unity final.

The reply to this Office action was filed by applicant on April 24, 2004 with a traversal statement concerning the restriction and with amendments to the claims, cancellation of the compound claims to the organic tritiated compound and addition of newly added method claims 48 to 56. However the traversal was directed to restriction practice and not Lack of Unity practice which governs the present restriction.

The examiner included the newly added claims in the examination to the extent that they read on the elected group and set forth a Final Rejection mailed on June 22, 2004.

DISCUSSION

The instant generic claim is to a tritium labeled organic compound which is claimed in a product by process format. The process is not essential to the patentability of the product unless it forms a materially different product. The art cited by the examiner teaches a tritium labeled organic compound which is made by reaction of a tritium hydride (i.e. chromatographic analysis showed that 95% of the tritium was in the form of tritium hydride) with an organic compound in the presence of a catalyst and a solvent which also meets the limitation of the independent claimed process.

This application is filed under 35 U.S.C 371 and as such the requirement for Unity of Invention

are as follows: An international or a national stage application is considered to have unity of invention where there exists a "special technical feature" that defines a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. See PCT Rule 13.2;

PCT 13.2 Circumstances in Which the Requirement of Unity of Invention Is to Be Considered Fulfilled
Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

See Annex B, Part 2 of the PCT Administration Instructions

MPEP 1850 states *Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims and (i) If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims; (ii) If however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on the claim need to be carefully considered. If there is no link remaining an objection of lack of unity a posteriori (that is, arising only after assessment of the prior art) may be raised. See ANNEX B: Unity of Invention Part 1 "Instructions Concerning Unity of Invention" MPEP AI-6 (Rev. 1. Feb. 2003).*

There are thousands of known tritium labeled organic compounds and the examiner has cited one of those compounds. The only technical feature the compounds share are the fact that they are organic and they are tritiated. This is a technical feature but it is not " a special technical feature" nor is it applicant's contribution to the art.

Since there is no "special technical feature" there is no unity of invention between the compound, the method of preparation, and the method of use. However, the examiner has left the compounds, process of making and process of using together and has searched the elected Group.

It is noted that all claims are generic in that no specific tritium labeled compounds are defined. Review of the specification shows that the tritium labeled compounds are limited to those defined by Formula A2-F2. None of the compounds defined by the Formulas have a special technical feature to any other formula. The compounds are structurally distinct tritiated compounds which have no structural or chemical core that is common to all the compounds. They have no "special technical feature" and each structure lacks unity with the other structures. Thus the structures are listed in Groups I-VII.

37 CFR 1.475(b)-(d) provides guidance for treatment of second and subsequent products and

methods.
(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:
(1) A product and a process specially adapted for the manufacture of said product; or
(2) A product and process of use of said product; or
(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
(4) A process and an apparatus or means specifically designed for carrying out the said process; or
(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.
(c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.
(d) If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).

Groups VIII and IX fall under (d) above in that the additional products and methods of using are claimed and therefore lack unity with Groups I-VII and a holding of Lack of Unity is proper.

Applicant's arguments have been fully considered. Applicant is correct in that the claim to the organic tritiated compound is not a Markush group but a genus claim. However applicant's arguments and case law support have essentially been directed to US restriction practice. It is pointed out that the case is the National stage of an International Application filed under 35 U.S.C. 371 and is subject to Lack of Unity practices as defined by PCT regulation.

Although the reference to a Markush Group by the examiner is incorrect, the examiner did properly apply the Lack of Unity guidelines to determine the different Groups which do not have a "special technical feature" in common and lack Unity of Invention. It is noted that applicant has now canceled the claims to any tritiated organic compound and the present application is left with process of making and process of using claims which have no "special technical feature" in common.

DECISION

The petition is **DENIED**.

Applicant is reminded of the requirement to reply to the Office action mailed June 22, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/06

TO SPE OF : ART UNIT 1725

10/296,715

SUBJECT : Request for Certificate of Correction for Appl. No.: [illegible] Patent No.: 6,789,722

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**.

Moxima

Certificates of Correction Branch

703-308-9390 ext. 115

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The added claim in the Certificate of Correction was present and allowed by the examiner. Due to office error, it was not printed in the patent.

SPE

1725

Art Unit

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SUITE 370
ALEXANDRIA VA 22314

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MAR 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Tsuchida	:	
Application No. : 10/296,724	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. H-1077	:	

This is a decision on the petition under 37 CFR 1.182, filed September 11, 2006, for withdrawal of terminal disclaimer.

The petition is **GRANTED**.

The instant petition has been carefully considered and found convincing. Accordingly, the nullification of the previously recorded terminal disclaimer is deemed an appropriate course of action.

This application is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272- 3205.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

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MINNEAPOLIS, MN 55402-0903

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Luc De Vuyst, et al	:	
Application No. 10/296,732	:	DECISION ON PETITION
Filed: November 25, 2002	:	TO WITHDRAW
Attorney Docket No. 9997.53USWO	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 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).

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no Office actions pending 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

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JUN 21 2007

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ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

In re Application of	:
Frankilin P. Bymaster et al	:
Serial No.: 10/296,738	: PETITION DECISION
Filed: November 25, 2002	:
Attorney Docket No.: X-13259	:

This is in response to the petition under 37 CFR 1.181, filed April 18, 2007, requesting withdrawal of the examiner's objection to an amendment to the specification.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action to applicants on May 1, 2005, setting forth a two way Lack of Unity requirement. Applicants replied by electing Group I with traverse. This examiner action is not the subject of this petition.

The examiner mailed a non-Final Office action to applicants on July 19, 2005, rejecting claims 2-4, 6, 12 and 16-20 under 35 U.S.C. 103(a) as unpatentable over Chakrabarti et al in view of Piniero et al. No other rejections were made.

Applicants replied on January 20, 2006, amending the specification by adding a unit dosage to the table at pages 32-33. The rejections were appropriately addressed.

The examiner mailed a Final Office action to applicants on April 12, 2006, maintaining the rejection of claims 2-4, 6, 12 and 16-20 under 35 U.S.C. 103(a) and responding to applicants' arguments. The examiner also objected to the amendment to the specification under 35 U.S.C. 132(a) as containing new matter, namely the unit dosage added to the table.

Applicants filed an amendment after Final Office action on May 2, 2006, which the examiner declined to enter as indicated in an Advisory Action, mailed May 17, 2006. Applicants filed RCE papers on June 29, 2006, and requested entry of the previous amendment which amended claim 6 and listed as canceled claims 1, 7-11, 15-16 and 18-19. Applicants traversed the rejection and the objection to the amendment to the specification.

The examiner mailed a new non-Final Office action to applicants on September 11, 2006, maintaining the same rejection under 35 U.S.C. 103(a) and objection to the specification under

35 U.S.C. 132(a) and adding a rejection under 35 U.S.C. 112, first paragraph, for lack of enablement of that which is being claimed.

Applicants replied on December 13, 2006, amending claims 6, 12 and 20, canceling claims 1-2, 4 7-11 and 15-19. The rejections were addressed properly and an affidavit under 37 CFR 1.132 to support the amendment to the specification as not being new matter was filed.

The examiner mailed a Final Office action to applicants on January 30, 2007, holding the affidavit insufficient to overcome the new matter objection (as it was basically an opinion affidavit and lacked supporting evidence). The rejection under 35 U.S.C. 103(a) was maintained and the rejection under 35 U.S.C. 112, first paragraph, was withdrawn.

Applicants filed this petition on April 18, 2007, requesting relief from the examiner's requirement. A Notice of Appeal was also filed on April 18, 2007, along with an Appeal Brief.

DISCUSSION

The whole of this matter revolves around whether it is proper to amend a table of values by appending a unit of measurement to an otherwise undesignated column of values and whether such amendment would be new matter. Applicants have amended a table to provide a unit of measurement (mg/kg body weight) to the "dose" column so as to clarify and otherwise complete the disclosure in the specification. The unit of measurement added, as argued by applicants, is a typical unit of measurement for dosing an experimental test animal under these type of experimental conditions. Applicants argue that the amendment is necessary to complete and/or clarify the disclosure as originally filed. Applicants state that the only other units expressly set forth in the specification (mg/day) are used in a different context than that of the testing protocol of the table. Applicants, after receiving a new matter objection regarding the amendment, provided an affidavit stating the unit dosage measurement appended to the table is the unit of measurement used in the experimental trials. The affidavit was not accepted as sufficient in that no experimental evidence was presented (i.e. – laboratory notebook entries showing this measurement value for representative entries in the table) confirming that the value presented is correct.

A review of the claims under consideration shows no unit dosage, other than "an effective amount", is being claimed. Thus addition of the unit dosage to the table has no effect on the determination of patentability of the claims at issue. In view of this the amendment will be permitted entry without objection to its being new matter. However, applicants should submit a supplemental affidavit providing proper evidence (such as laboratory notebook pages) establishing that the unit of measurement added is correct.

The petition is **GRANTED.**

The application will be forwarded to the examiner for consideration of applicants' Appeal Brief and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

2 5 MAR 2003

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Armstrong, Westerman & Hattori, LLP
1725 K Street, N.W., Suite 1000
Washington, DC 20006

In re Application of KODEMURA et al
U.S. Application No.: 10/296,748
Int. Application No.: PCT/JP01/03708
Int. Filing Date: 27 April 2001
Priority Date: 28 April 2000
Attorney Docket No.: 021579
For: GRAFTING-MODIFIED CYCLIC POLYMER, PROCESS FOR PRODUCING THE SAME, AND CURABLE COMPOSITION

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition to Revive Under 37 C.F.R. 1.137(b)" filed 27 November 2002.

BACKGROUND

On 27 April 2001, applicant filed international application PCT/JP01/03708, which claimed priority of an earlier Japan application filed 28 April 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 08 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 October 2002.

International application PCT/JP01/03708 became abandoned as to the United States at midnight on 28 October 2002 for failure to pay the basic national fee.

On 27 November 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay from the deadline for entry into the U.S. national stage to the date of the present petition was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a translation of the international application into English must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

23 JUL 2003

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James M. Deimen
320 N Main Street Suite 300
Ann Arbor, MI 48104-1192

In re Application of GIBSON Serial No.: 10/296,763 PCT No.: PCT/IB01/01268 Int. Filing Date: 15 June 2001 Priority Date: 16 June 2000 Attorney's Docket No.: 01-1305US For: TIMING BELT AUTOTENSIONER WITH AN ANTI-TOOTH SKIP MECHANISM	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 June 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $1060 has now been paid. The required petition fee of $1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing . A declaration, in compliance with 37 CFR 1.497(a) & (b), and $130 surcharge for filing the declaration after the thirty month period was filed in the USPTO on 24 June 2003. The 35 U.S.C. 371 date is **24 June 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:
Toshihiro Fujino et al	:
Application No. 10/296,772	: DECISION ON PETITION
Filed: December 13, 2002	: UNDER 37 CFR 3.81(b)
Attorney Docket No. 1509-02	:

This is a decision on the petition, filed July 14, 2004, which is being treated as a request under 37 CFR 3.81(b)[1] to correct assignee data on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the corrected assignee.

The request is **dismissed**.

Applicants state that inclusion of Toray Industries, Inc. on the Issue Fee Transmittal Form PTOL-85(b) was incorrect. Accordingly, applicants herein request that the patent issue to **Toray Fine Chemicals Co., LTD**.

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* Official Gazette of June 22, 2004

The instant request was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). Accordingly, the request cannot be granted.

A review of the assignment records reflects that an assignment to Toray Fine Chemicals Co., LTD., has been recorded and that such assignment was recorded prior to issuance of this application into a patent. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Toray Fine Chemicals Co., LTD. was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Toray Fine Chemicals Co., LTD. as the assignee**. No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision ***must*** accompany the request for a Certificate of Correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3220. After the submission of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

In re Patent No. 7,037,020	:	
Issue Date: May 2, 2006	:	
Application No. 10/296,776	:	NOTICE
Filed: November 26, 2002	:	
Attorney Docket No. 1954/OM262	:	

This is a notice regarding your request filed October 29, 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 **NOT ACCEPTED**.

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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In re Application of	:	
Sandor Berki et al.	:	
Application No. 10/296,793	:	DECISION ON PETITION
Filed: November 26, 2002	:	37 CFR §1.181
Attorney Docket No. 7202-12	:	

This is a decision on the petition under 37 CFR §1.181, filed January 12, 2005 and February 17, 2005, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply to the Non-Final Office Action mailed May 25, 2004. The Notice set a three (3) month shortened statutory period for reply, and extensions of time were available under 37 CFR 1.136(a). No reply having been received, the above-identified application became abandoned November 26, 2004. A Notice of Abandonment was mailed on December 28, 2004.

Petitioner asserts that a timely reply to the Office Action, in the form of an Amendment, was filed on August 30, 2004. In support of this assertion, petitioner provides copies of the Postcard Receipt, and Amendment, which includes a Certificate of Transmission dated August 25, 2004 in the petition filed January 12, 2005.

Inspection of the papers filed indicates that the petitioner's counsel erroneously filed a cover sheet to another application in this application, and by doing so, incorrectly identified the amendment to this application and delayed its processing and matching. In such instances of counsel's error, it is the practice of the Office to review all papers and attempt matching the papers to the intended file, if possible. A subsequent petition was filed on February 17, 2005 with a cover sheet that properly matched the intended file. While the correct cover sheet was not filed in the shortened statutory period set in the non-final Office Action, the remaining papers in the communication appeared the same as those that were timely filed as asserted. This resulted in a successful matching of the file. The abandonment was rescinded and the application was placed on the Examiner's docket.

In view of the foregoing, the holding of abandonment has been withdrawn. No petition fee has been charged and none is due.

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 3700, Art Unit 3732 for consideration of the amendment filed in the application.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Robert D. Shedd
Thomson Licensing LLC
Patent Operations CN 5312
Princeton, NJ 08543-0028

Mail Date: 04/21/2010

Applicant	: Soren Dambach	: DECISION ON REQUEST FOR
Patent Number	: 7596070	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/296,799	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1033** 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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of
Manfred GORETZKI, et al
Application No. 10/296,816
Filed: September 15, 2003
Attorney Docket No. 449122046900

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 **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 with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise

April Wise
Petitions Examiner
Office of Petitions

cc: MANFRED GORETZKI
BRUDERHOFSTR. 30 A
MUNCHEN, 81371
GERMANY

cc: KEVIN SPIVAK,
BELL, BOYD & LLOYD LLC
70 WEST MADISON STREET,
SUITE 3100
CHICAGO, IL 60602

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/296,816	09/15/2003	Manfred Goretzki	449122046900

CONFIRMATION NO. 4048

OC000000024512915

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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AUG 15 2007
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MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of
Manfred GORETZKI, et al
Application No. 10/296,816
Filed: September 15, 2003
Attorney Docket No. 449122046900

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 **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 with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise

April Wise
Petitions Examiner
Office of Petitions

cc: MANFRED GORETZKI
BRUDERHOFSTR. 30 A
MUNCHEN, 81371
GERMANY

cc: KEVIN SPIVAK,
BELL, BOYD & LLOYD LLC
70 WEST MADISON STREET,
SUITE 3100
CHICAGO, IL 60602

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/296,816	09/15/2003	Manfred Goretzki	449122046900

CONFIRMATION NO. 4048

OC000000024512915

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

24 FEB 2005

#5

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CHEVRONTEXACO CORPORATION LAW DEPARTMENT
INTELLECTUAL PROPERTY UNIT
P.O. Box 6006
San Ramon, CA 94583-6006

In re Application of:
MAES, Jean-Pierre, et al.
U.S. Application No.: 10/296,826
PCT No.: PCT/EP01/05623
International Filing Date: 17 May 2001
Priority Date: 24 May 2000
Attorney's Docket No.: D#99,003
For: CARBOXYLATE SALTS IN HEAT-STORAGE APPLICATIONS

DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 22 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required response from [the due date for the required reply] until the filing of this Petition was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the required response, that is, an executed declaration in compliance with 37 CFR 1.497, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 22 March 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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ZILKA-KOTAB, PC
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SAN JOSE, CA 95172-1120

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OFFICE OF PETITIONS

In re Application of	:	
Venkatesan TANGARAJ, et al	:	
Application No. 10/296,827	:	DECISION ON PETITION
Filed: November 25, 2002	:	TO WITHDRAW
Attorney Docket No. ENM1P001	:	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 24, 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 there is no indication that the act noted above at item 2, has been performed.

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: VENKATESAN THANGARAJ
MEGASOF CONSULTANTS, INC.
ENMED
52 KING STREET
WATERTOWN, MA 02472

cc: SOMASHEKAR N. REDDY
24 JOCO DRIVE
TYNGSBORO, MA 01879

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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 Patent No. 6,998,440	:	
Issue Date: February 14, 2006	:	
Application No. 10/296,830	:	ON PETITION
Filed: June 23, 2003	:	
Attorney Docket No. 01435.0151	:	

This is a decision on the petition under 37 CFR 1.182, filed March 20, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning issuance of the duplicate Letters Patent should 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower, 8th Floor, Room C-32 (Fax No. 571-270-9937)

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Commissioner for Patents
United States Patent and Trademark Office
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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
O'Connor, et al.	:	
Application No. 10/296,845	:	DECISION
Filed: 18 July, 2003	:	
Attorney Docket No. MEWE-017	:	

This is a decision on the petition, filed on 14 January, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must, *inter alia*, provide statements and documentary support as set forth in the Commentary at MPEP §711.03(c)(I).

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly 2 May, 2007, final Office action with reply due absent request and fee for extension of time on or before 2 August, 2008.

On 30 October, 2007, Petitioner filed, *inter alia*, a request and fee for extension of time and an after-final amendment, which Petitioner–as one registered to practice before the Office—knows

is not as of right and not a proper reply[1] if it does not *prima facie* place the application in condition for allowance. However, Petitioner also filed a Notice of Appeal with fee.

On 27 December, 2007, the Examiner mailed an Advisory Action and indicated that:

***

> ... the FINALITY of the last office action is hereby withdrawn in response to applicants amendment after-final. The amendment-after-final will be entered and prosecution reopened. *** A new office action will be forthcoming. No further action is necessary by applicants until receipt of said action.

***

The Office mailed the Notice of Abandonment on 24 June, 2008.

On 14 January, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, with, *inter alia*, an averment that:

- Petitioner filed on 30 October, 2007, a request and fee for extension of time and an after-final amendment, and Petitioner filed a Notice of Appeal with fee

- on 27 December, 2007, the Examiner mailed an Advisory Action and indicated that "the FINALITY of the last office action is hereby withdrawn in response to applicants amendment after-final. The amendment-after-final will be entered and prosecution reopened. *** A new office action will be forthcoming. No further action is necessary by applicants until receipt of said action."

Petitioner submitted a copy of the Advisory Action, and, of course, the record reflects it as wll.

In any case, argues the Petitioner, the Office deeming the application abandoned without the Examiner first having mailed a new Office action was improper.

The record is silent as to the mailing of a new Office action following the mailing of the 27 December, 2007, Advisory Action by the Examiner.

The guidance in the Commentary at MPEP §711.03(c)(I), provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2]

***

The record evidencing no subsequent mailing of an Office action, Petitioner need make no further showing to satisfy the requirements under the rule.

It is noted that:

- *Petitioner avers telephone communication with the Examiner. Petitioner is aware, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and that once a Notice of Abandonment has been mailed, the Examiner is without authority to act in the absence of the granting of a petition to withdraw the holding of abandonment (pursuant to 37 C.F.R. §1.181) or to revive the application pursuant to 37 C.F.R. §1.137(a0 or (b); and*

- *Petitioner's reply to the Notice of Abandonment is late under the rule (37 C.F.R. §1.181), and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c)(C) ("Treatment of Untimely Petition To Withdraw Holding of Abandonment") in this regard, as set forth below in pertinent part:*

***

---

[2] *See*: MPEP §711.03(c) (I)(A).

[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.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office 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.[4]

---

[4] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And 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.[5],[6]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 24 June, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 1648 for further processing as necessary in due course consistent with this decision.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

[5] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[6] 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. (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. 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) And the Petitioner must be diligent in attending to the matter. 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.))

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] 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

#3

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15 JUL 2003

Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of	:	
Medvinsky	:	
Application No. 10/296,846	:	DECISION ON
PCT No.: PCT/US00/09318	:	
Int. Filing Date: 07 April 2000	:	PETITION UNDER
Priority Date: 09 April 1999	:	
Atty. Docket No.: 018926-004000US	:	37 CFR 1.137(b)
For: Built-In Manufacturer's Certificates	:	
For A Cable Telephony Adapter To	:	
Provide Device And Service Certif...	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 27 November 2002.

BACKGROUND

This international application was filed on 07 April 2000 and claimed earliest priority of an application filed on 08 April 1999. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 08 October 2001. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing opf a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
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BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Oh, Sang-Hwan	:	
Application No. 10/296,850	:	
Filed: November 27, 2002	:	
Attorney Docket No. 2428-000004	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 30, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office 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 or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3622 for expedited prosecution.

Liana Chase for
David Bucci
Petitions Examiner
Office of Petitions

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR NY 10510

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OFFICE OF PETITIONS

In re Application of	:	
Pieter Maria Mielekamp	:	
Application No. 10/296,868	:	DECISION ON PETITION
Filed: 26 November, 2002	:	
Attorney Docket Number:	:	
NL010190US	:	

This is a decision on the petition filed on 7 February, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 21 December, 2006, for failure to timely submit corrected drawings in response to the Notice of Allowability mailed on 20 September, 2006, which set a

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

three (3) month statutory period for reply. Notice of Abandonment was mailed on 17 January, 2007.

Receipt of the corrected drawings is acknowledged.

The application is being referred to the Publishing Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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TYSONS CORNER VA 22182

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OFFICE OF PETITIONS

In re Application of	:	
BACK, et al.	:	
Application No. 10/296,878	:	DECISION GRANTING PETITION
Filed: July 22, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **060282.00318**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 28, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

In re Application of	:	
Karl Keller, et. al.	:	
Application No. 10/296,888	:	ON PETITION
Filed: July 18, 2003	:	
Attorney Docket No. 02-729	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on November 6, 2006, to revive the above-identified application.

The above application became abandoned for failure to timely reply to the final Office action mailed on April 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application is being revived for consideration of the RCE filed on November 6, 2006. The Office also acknowledges receipt of a request for Suspension of Action under 37 CFR 1.103(c) and fee filed with the RCE.

This application file is being referred to Technology Center Art Unit 1742.

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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

23 JAN 2007

In re Application of: MATSUYAMA, Tetsuya	:	
U.S. Application No.: 10/296,904	:	DECISION
PCT No.: PCT/JP01/03813	:	
International Filing Date: 02 May 2001	:	
Priority Date: 31 May 2000	:	
Atty Docket No.: 1248-0625P	:	
For: IMAGE INFORMATION PROCESSING	:	
DEVICE, ... AND RECORDED MEDIUM ON	:	
WHICH IMAGE INFORMATION	:	
PROCESSING PROGRAM IS RECORDED	:	

This decision is issued in response to the "Request To Correct Filing Date" filed 21 December 2006 and the "Supplement To Request To Correct Filing Date" filed 22 January 2007, treated herein together as a petition under 37 CFR 1.181 to correct the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). No petition fee is required.

BACKGROUND

On 02 May 2001, applicant filed international application PCT/JP01/03813. The international application claimed a priority date of 31 May 2000, and it designated the United States. On 12 June 2001, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for filing the basic national fee was thirty months from the priority date, i.e., 30 November 2002.

On 27 November 2002, applicant filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and a translation into English of the international application.

On 28 January 2003, applicant filed a cover letter indicating that it was accompanied by an executed declaration.

On 27 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements " and the "Date Of Receipt Of All U.S.C. 371 Requirements" as 27 November 2002. Also on 27 February 2003, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 27 November 2002.

On 21 December 2006, applicant filed the "Request To Correct Filing Date" considered herein as a petition under 37 CFR 1.181. The petition states that the proper filing date for the present application is 28 January 2003, the date on which the executed declaration was first filed (the petition notes that the copy of the declaration in the electronic application file is incorrectly listed as having been filed on 27 November 2002).

On 22 January 2007, applicant filed a "Supplement To Request To Correct Filing Date" that included a copy of a return postcard that itemizes the executed declaration and bears a USPTO receipt stamp dated 28 January 2003.

DISCUSSION

The electronic file indicates that the declaration herein was filed on 27 November 2002; however, in the present petition, applicant asserts that this declaration was not filed until 28 January 2003.

A review of the application file confirms that the cover letter indicating that it is accompanied by the executed declaration was filed on 28 January 2003. Moreover, the inventor did not execute the declaration itself until 23 January 2003; this makes clear that the 27 November 2002 filing date assigned the declaration in the electronic file is incorrect. Finally, applicants have now submitted a copy of the return postcard that itemizes the executed declaration and bears a USPTO receipt stamp dated 28 January 2003.

Based on applicant's statements in the present petition, the execution date of the declaration, the filing date of the cover letter submitted with the declaration, and the stamped return postcard, it is concluded that the executed declaration herein was first filed in the USPTO on 28 January 2003. The electronic application file will be corrected accordingly.

Because the executed declaration was not filed until 28 January 2003, the correct date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present application is 28 January 2003. The Notification Of Acceptance and filing receipt mailed herein on 27 February 2003, both of which identified the 35 U.S.C. 371(c) date as 27 November 2002, are therefore appropriately vacated.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**.

The filing date for the executed declaration herein is corrected to 28 January 2003. The correct date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present application is therefore 28 January 2003.

The Notification Of Acceptance and filing receipt mailed 27 February 2003, both of which identified the 35 U.S.C. 371(c) date as 27 November 2002, are hereby **VACATED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing, including the mailing of a corrected Notification Of Acceptance and filing receipt that properly identified the 35 U.S.C. 371(c) date as 28 January 2003.

Richard M. Ross
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27 FEB 2008

Oliff & Berridge
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Alexandria VA 22320

In re Application of:	:	
GUEVEL, Jean, et al.	:	DECISION
U.S. Application No.: 10/296,924	:	
PCT No.: PCT/FR01/02208	:	
International Filing Date: 09 July 2001	:	
Priority Date: 13 July 2000	:	
Atty Docket No.: 114349	:	
For: UNIDIRECTIONAL SHEET MADE	:	
OF COMPOSITE	:	

This decision is issued in response to the "Fifth Request For Correction Of PALM Records" filed 26 November 2007, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date. No petition fee is required.

BACKGROUND

On 09 July 2001, applicant filed international application PCT/FR01/02208. The international application claimed a priority date of 13 July 2000, and it designated the United States. On 24 January 2002, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO).

On 10 December 2001, applicants filed a Demand for International Preliminary Examination electing the United States. The deadline for submitting the basic national fee was therefore extended to thirty months from the priority date, i.e., 13 January 2003.

On 29 November 2002, applicant filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and a translation into English of the international application.

On 09 January 2003, applicants filed an executed declaration.

On 06 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharged for filing the oath or declaration later than thirty months after the priority date was required.

On 14 March 2003, applicants filed a response to the Notification of Missing Requirements indicating that an executed declaration had been previously filed on 09 January 2003. The submission included a copy of the previously filed declaration.

On 17 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements " and the "Date Of Completion Of All U.S.C. 371 Requirements" as 14 March 2003. Also on 17 February 2003, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 14 March 2003.

On 25 February 2004, applicants filed a "Request For Correction Of PALM Records" seeking correction of errors in the filing receipt. Specifically, applicants requested correction of the 35 U.S.C. 371(c) date to 09 January 2003 and correction of the application title.

On 11 August 2004, a corrected filing receipt was mailed. The corrected filing receipt included a corrected title; however, the 35 U.S.C. 371(c) date remained 14 March 2003.

On 27 September 2004, applicants filed another "Request For Correction Of PALM Records" seeking correction of errors in the filing receipt. Specifically, applicants again requested correction of the 35 U.S.C. 371(c) to 09 January 2003 and further correction of the application title.

Applicant filed four additional requests for the above corrections to be entered between February 2005 and August 2007.

On 02 November 2007, a corrected filing receipt was issued which corrected the title as requested. However, the date under 35 U.S.C. 371(c) remained 14 March 2003.

On 26 November 2007, applicants filed the "Fifth Request For Correction Of PALM Records" considered herein as a petition under 37 CFR 1.181. This submission again asserts that the executed declaration that completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was originally filed herein on 09 January 2003, and that the date under 35 U.S.C. 371(c) should therefore be corrected to 09 January 2003.

On 08 January 2008, a "Notice of Allowance And Fee(s) Due" (Form PTOL-85) was mailed herein.

DISCUSSION

A review of the application file confirms that the executed declaration that completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was originally filed herein on 09 January 2003. The correct date under 35 U.S.C. 371(c) for the present application is therefore 09 January 2003, as asserted by applicants in the present petition.

Based on the above, the Notification Of Acceptance (Form PCT/DO/EO/903) mailed 17 February 2004 and the corrected filing receipt mailed 02 November 2007, both of which identified the 35 U.S.C. 371(c) date as 14 March 2003, are appropriately vacated.

A corrected Notification Of Acceptance and filing receipt will be issued which properly identify the 35 U.S.C. 371(c) date as 09 January 2003.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**.

A review of the application file confirms that the executed declaration completing the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was filed herein on 09 January 2003.

The Notification Of Acceptance (Form PCT/DO/EO/903) mailed 17 February 2004 and the most recent corrected filing receipt, mailed 02 November 2007, both of which identified the 35 U.S.C. 371(c) date as 14 March 2003, are hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a corrected Notification of Acceptance (Form PCT /DO/EO/903) and filing receipt which properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 09 January 2003.

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OFFICE OF PETITIONS

In re Application of	:	
Theiss, Peter	:	
Application No. 10/296,934	:	ON PETITION
Filed: February 25, 2003	:	
Attorney Docket No. 327452-600005	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 2, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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C. Irvin McClelland
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of HOSAKA, et al. Application No.: 10/296,939 PCT No.: PCT/JP02/03045 Int. Filing Date: 28 March 2002 Priority Date: 30 March 2001 Attorney Docket No.: 230605US0PCT For: SOLID CATALYST COMPONENT FOR OLEFIN POLYMERIZATION, CATALYST, AND PROPYLENE BLOCK COPOLYMER	DECISION ON REQUEST FOR REFUND

This decision is in response to applicant's request for refund filed 17 September 2004 in the United States Patent and Trademark Office (USPTO) requesting refund of a $86.00 charge deducted from Deposit Account No.: 15-0030 on 09 August 2004.

Applicant states that: "On July 27, 2004, an amendment was filed in this application. **A credit card payment form for American Express in the amount of $86.00 was included in that filing to pay for an extra independent claim. Therefore, there should not be a charge on our account for an additional independent claim.**" An examination of the application record finds that the initial National stage filing contained four (or one extra) independent claim for which applicant made an $84.00 payment. The amendment filed 27 July 2004 added two additional independent claims. In the fee calculation sheet filed on 27 July 2004, applicant erroneously calculated the number of "Highest Number Previously Paid" column for independent claims as five. Because of the error, applicant only paid for one additional independent claim when payment of two was required. As such, the charge was properly deducted from the deposit account.

Applicant's request for refund is **DENIED**.

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JACOBSON HOLMAN PLLC
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SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Hideaki Yukawa	: DECISION ON REQUEST FOR
Patent Number	: 7598063	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/296,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

18 NOV 2004

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Piscataway, NJ 08855

In re Application of	:	
STOREY et al.	:	
Application No.: 10/296,952	:	DECISION ON PETITION
PCT No.: PCT/GB01/02652	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 18 June 2001	:	
Priority Date: 22 June 2000	:	
Attorney Docket No.: PA0034	:	
For: STABILISER FOR RADIOPHARMACEUTICALS	:	

The petition to revive under 37 CFR 1.137(b) filed 21 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the proposed reply (declaration) and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371 date is 21 October 2004.

Anthony Smith
Attorney-Advisor
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OFFICE OF PETITIONS

In re Application of

Cornolti, et al.

Application No. 10/296,968

Filed: May 21, 2003

Attorney Docket No. 2865-374

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed March 8, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 10, 2007, after it was believed that no response was received to the non-final Office action mailed August 9, 2007. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on February 25, 2008, indicating that a reply to the non-final Office action was not received.

Petitioner states that an Amendment responsive to the non-final Office action was filed on February 11, 2008, with a request for an extension of time within the third month. A review of the application file reveals that an Amendment was filed on February 11, 2008, with a request for an extension of time within the third month. Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3600, GAU 3682 for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

24 SEP 2003

#15

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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Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of
NEGORO, Fumio
Application No.: 10/297,020
PCT No.: PCT/JP01/04466
Int. Filing Date: 28 May 2001
Priority Date: 30 May 2000
Docket No.: 045616.257409
For: PROCESSING METHOD USING SYNCHRONOUS STRUCTURE OF INFORMATION PROCESSOR

DECISION ON

PETITION

UNDER 37 CFR 1.181

This notification is in response to applicant's "Response to Notification of Missing Requirements," filed with the United States Patent and Trademark Office on 21 July 2003. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 28 May 2001, applicant filed international application PCT/JP01/04466, which claimed a priority date of 30 May 2000. A timely demand for international preliminary examination was filed on 22 November 2001. A copy of the international application was transmitted to the United States Patent and Trademark Office from the International Bureau (IB) on 06 December 2001. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 02 December 2002 (30 November 2002 was a Saturday).

On 27 November 2002, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee and a translation of the international application.

On 19 May 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the translation of the drawings was defective and requiring a new translation and the processing fee for late filing of the translation.

On 21 July 2003, applicant submitted a petition requesting that the Office vacate the Notice of Missing Requirements (Form PCT/DO/EO/905) mailed 19 May 2003.

DISCUSSION

The Notification of Missing Requirements indicated that applicant had submitted translations of 58 drawings, though the international application contained only 56. This was incorrect. The translation contained 59 drawings, while the international application contained 58. Figure 21-1 in the translation does not have a counterpart in the international application. Additionally, the translations of numerous drawings are defective.

A review of the international application reveals that text in several translated drawings lacks corresponding text in the international application. For example, the text above the diagrams in figures 8 through 21, does not appear in the drawings in the original application. Additionally, the shapes of certain charts have changed from three column to four column charts. For example, figure 1 and figure 4 have been so altered.

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Applicant must supply a translation of the international application and the processing fee for late furnishing of the translation within **TWO (2) MONTHS** of the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

14 JAN 2004

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of
NEGORO, Fumio
Application No.: 10/297,020
PCT No.: PCT/JP01/04466
Int. Filing Date: 28 May 2001
Priority Date: 30 May 2000
Docket No.: 045616.257409
For: PROCESSING METHOD USING SYNCHRONOUS STRUCTURE OF INFORMATION PROCESSOR

DECISION ON

PETITION

UNDER 37 CFR 1.181

This notification is in response to applicant's "Response to Decision On Petition Under 37 CFR 1.181," filed with the United States Patent and Trademark Office on 24 November 2003.

BACKGROUND

On 28 May 2001, applicant filed international application PCT/JP01/04466, which claimed a priority date of 30 May 2000. A timely demand for international preliminary examination was filed on 22 November 2001. A copy of the international application was transmitted to the United States Patent and Trademark Office from the International Bureau (IB) on 06 December 2001. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 02 December 2002 (30 November 2002 was a Saturday).

On 27 November 2002, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee and a translation of the international application.

On 19 May 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the translation of the drawings was defective and requiring a new translation and the processing fee for late filing of the translation.

On 21 July 2003, applicant submitted a petition requesting that the Office vacate the Notice of Missing Requirements (Form PCT/DO/EO/905) mailed 19 May 2003.

On 24 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicant's petition without prejudice.

On 24 November 2003, applicant submitted "Response to Decision On Petition Under 37 CFR 1.181," accompanied by new translations of the drawings.

DISCUSSION

Applicant has now furnished a translation of the drawings from the international application into English and the fee for late furnishing of the translation.

CONCLUSION

Applicant has now complied with the requirements for entry into the national stage in the United States.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 U.S.C. §371(c) date is 24 November 2003.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

20 MAY 2003

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

INCYTE GENOMICS, INC.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	DECISION ON
ARVIZU et al	:	
Application No.: 10/297,021	:	
PCT No.: PCT/US01/16833	:	PETITION UNDER
Int. Filing Date: 22 May 2001	:	
Priority Date: 22 May 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: SF-0781 USN	:	
For: G-PROTEIN COUPLED RECEPTORS	:	

This decision is in response to applicants' "Petition For Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 25 November 2002.

BACKGROUND

On 22 May 2001, this international application was filed, claiming an earliest priority date of 22 May 2000.

The application became abandoned for failure to commence the national stage timely under 35 U.S.C. 371.

On 25 November 2002, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, and basic national fee. No executed declaration or oath was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any

terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

26 SEP 2003

Flynn, Thiel, Boutell & Tanis, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1699

In re Application of	:	
Tanimoto	:	
US Application No.: 10/297,029	:	
PCT Application No.: PCT/JP00/03514	:	DECISION ON
International Filing Date: 31 May 2000	:	PETITION FOR REFUND
Priority Date: 31 May 2000	:	UNDER 37 CFR 1.26
Attorney's Docket No.: Ito C-5	:	
For: METHOD OF TREATING AND	:	
ACTIVATING SEA WATER OR POLLU-	:	
TED WATER INTO DRINKING WATER	:	

This decision is in response to the request for a refund of one half of the basic national fee paid on the above-referenced application. The request, filed on 21 January 2003 and re-submitted on 21 July 2003, is being properly treated as a petition under 37 CFR 1.26, and is **GRANTED** as follows.

BACKGROUND

On 31 May 2000, Applicant filed international application PCT/JP00/03514. A copy of the international application, in Japanese, was communicated from the International Bureau to the USPTO on 06 December 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 28 December 2001, prior to 31 December 2001, the end of the 19-month period from the 31 May 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 30 November 2002.

On 27 November 2002, Applicant submitted, *inter alia*, a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 (Form PTO-1390), along with a $890 check for paying the $890 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5).

On 21 January 2003, the instant petition was filed, in essence asserting entitlement to small entity status, and requesting refund of one half of the $890 basic national fee paid on 27 November 2002.

DISCUSSION

37 CFR 1.26 provides, in part, that (a) the Commissioner may refund any fee paid by mistake or in excess of that required; (b) any request for refund must be filed within 2 years from the date the fee was paid, except as otherwise provided in §1.26 or §1.28(a).

Under 37 CFR 1.28(a), a refund request based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity, must be filed within 3 months of the date of payment of the full fee.

To establish small entity status, in accordance with 37 CFR 1.27(c), a written assertion is required that: (1) is clearly identifiable; (2) clearly conveys the intent to assert small entity status; (3) is signed by the applicant, a registered practitioner, or the assignee, if any.

The instant petition, through a second Form PTO-1390, asserts Applicant's entitlement to small entity status, and thus overpayment of the basic national fee on 27 November 2002. The assertion is signed by a registered practitioner, and filed within 3 months of the 27 November 2002 payment of the full fee. Therefore, the petition has met all the pertinent requirements.

CONCLUSION

In view of the above, the petition for a refund of half of the $890 basic national fee paid on 27 November 2002, i.e., $445, is **GRANTED**. The refund of $445 has been credited to Deposit Account No. 06-1382 as authorized in the instant petition.

In addition, Applicant's claim for priority is acknowledged. The application has an international filing date of 31 May 2000 under 35 U.S.C. 363.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Richard Cole
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

26 SEP 2003

Flynn, Thiel, Boutell & Tanis, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1699

In re Application of Tanimoto US Application No.: 10/297,030 PCT Application No.: PCT/JP00/03515 International Filing Date: 31 May 2000 Priority Date: 31 May 2000 Attorney's Docket No.: Ito C-6 For: INORGANIC ELECTROLYTIC COAGULANT AND A METHOD OF TRANSFORMING SLUDGE BY USING THIS INORGANIC ELECTROLYTIC COAGULANT	DECISION ON PETITION FOR REFUND UNDER 37 CFR 1.26

This decision is in response to the request for a refund of one half of the basic national fee paid on the above-referenced application. The request, filed on 21 January 2003 and re-submitted on 21 July 2003, is being properly treated as a petition under 37 CFR 1.26, and is **GRANTED** as follows.

BACKGROUND

On 31 May 2000, Applicant filed international application PCT/JP00/03515. A copy of the international application, in Japanese, was communicated from the International Bureau to the USPTO on 06 December 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 28 December 2001, prior to 31 December 2001, the end of the 19-month period from the 31 May 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 30 November 2002.

On 27 November 2002, Applicant submitted, *inter alia*, a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 (Form PTO-1390), along with a $890 check for paying the $890 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5).

On 21 January 2003, the instant petition was filed, in essence asserting entitlement to small entity status, and requesting refund of one half of the $890 basic national fee paid on 27 November 2002.

DISCUSSION

37 CFR 1.26 provides, in part, that (a) the Commissioner may refund any fee paid by mistake or in excess of that required; (b) any request for refund must be filed within 2 years from the date the fee was paid, except as otherwise provided in §1.26 or §1.28(a).

Under 37 CFR 1.28(a), a refund request based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity, must be filed within 3 months of the date of payment of the full fee.

To establish small entity status, in accordance with 37 CFR 1.27(c), a written assertion is required that: (1) is clearly identifiable; (2) clearly conveys the intent to assert small entity status; (3) is signed by the applicant, a registered practitioner, or the assignee, if any.

The instant petition, through a second Form PTO-1390, asserts Applicant's entitlement to small entity status, and thus overpayment of the basic national fee on 27 November 2002. The assertion is signed by a registered practitioner, and filed within 3 months of the 27 November 2002 payment of the full fee. Therefore, the petition has met all the pertinent requirements.

CONCLUSION

In view of the above, the petition for a refund of half of the $890 basic national fee paid on 27 November 2002, i.e., $445, is **GRANTED**. The refund of $445 has been credited to Deposit Account No. 06-1382 as authorized in the instant petition.

In addition, Applicant's claim for priority is acknowledged. The application has an international filing date of 31 May 2000 under 35 U.S.C. 363.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Richard Cole
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SUITE 300
WAYNE, PA 19102

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SEP 1 7 2004

OFFICE OF PETITIONS

In re Application of
Franck Sauvonnet et al
Application No. 10/297,033
Filed: November 27, 2002
Attorney Docket No. PEUGEOT1

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 3681 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Date : September 17, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/297,033**

Applicant(s) : Franck Sauvonnet et al
Application No. : 10/297,033
Filed : November 27, 2002

The above-identified application has been assigned Patent No. 6,793,054 and an issue date of September 21, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 21, 2004:

"All reference to Patent No. 6,793,054 to Franck Sauvonnet et al of France for CLUTCH PEDAL DESIGNED TO EQUIP A MOTOR VEHICLE appearing in the Official Gazette of September 21, 2004 should be deleted since no patent was granted."

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of	:	
gunther Schrick	:	
Application No. 10/297,040	:	DECISION GRANTING PETITION
Filed: August 18, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. SWR-0098	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of March 10, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1762.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1300 EYE STREET NW
SUITE 400 EAST TOWER
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
Matthias Frauenkron et al. :
Application No. 10/297,052 : ON PETITION
Filed: December 2, 2002 :
Attorney Docket No. 51476 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed January 30, 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 May 17, 2005. A shortened statutory period of three months was set for replying to the Final Office Action. Petitioners were notified in an advisory action mailed September 7, 2005 that a response filed August 16, 2005 did not place the application in condition for allowance. Thus, the application became abandoned May 18, 2005. Accordingly, a Notice of Abandonment was mailed January 23, 2006.

In response to the Final Office Action mailed May 17, 2005, petitioner has submitted a

---

[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)).

Request for Continued Examination (RCE) and requests that the amendment previously submitted on August 16, 2005 be considered as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1621 for processing of the RCE and submission.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Margaret J. McLaren, P.A.
McLaren Legal Services
6500 S.W. 133rd Drive
Miami, FL 33156

Mail Date: 04/20/2010

Applicant	: Philip Buder	: DECISION ON REQUEST FOR
Patent Number	: 7597780	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/297,053	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **367** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 7

KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036

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OFFICE OF PETITIONS

In re Application of :
Jorg Schottek et al :
Application No. 10/297,054 :
Filed: December 2, 2002 :
Attorney Docket No. 0732/000039 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 16, 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 17, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 1621 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

19 JUN 2003

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Lee E. Johnson
Christensen O'Connor Johnson Kindness, PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101

In re Application of	:	
BOTT, et al.	:	
U.S. Application No.: 10/297,067	:	
PCT No.: PCT/EP01/06276	:	DECISION ON PETITION
Int. Filing Date: 01 June 2001	:	
Priority Date: 14 June 2000	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: MITS-1-19791	:	
For: SYSTEM FOR TRANSMITTING DATA BY THE	:	
FREQUENCY HOPPING METHOD	:	

This decision is in response to applicant's "Petition For Application by Inventor on Behalf of Himself And Inventor Refusing to Sign Under 37 C.F.R. § 1.47" filed 22 April 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 01 June 2001, applicant filed international application PCT/EP01/06276, which claimed priority of an earlier application filed 14 June 2000. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 20 December 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 14 December 2002.

On 27 November 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the International Application; an Information Disclosure Statement and a First Preliminary Amendment. An executed oath or declaration was not included.

On 28 March 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was also notified of the need to pay the $130.00 surcharge for providing the oath

or declaration later than 30 months from the earliest claimed priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees

On 22 April 2003, applicant responded with the present petition to accept the present oath or declaration without the signature of co-inventor Dimitri Korobkov accompanied by a declaration executed by co-inventor Rainer Bott on his own behalf and on the behalf of the non-signing inventor, Dimitri Korobkov.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

Regarding item (1), applicant has provided payment of the appropriate petition fee.

As to item (2), applicant has provided a signed declaration from Thomas Korfer detailing efforts to obtain the signature of Dr. Korobkov; including sending a complete set of application papers to Dr. Korobkov. In addition, applicant has provided a signed declaration from Stefanie Szeili avowing that after Dr. Korobkov had received the papers, he told her in a telephone conversation that he would not execute the combined declaration and power of attorney.

Regarding item (3), applicant has supplied a statement of the last known address of Dr. Korobkov.

As to item (4), applicant has a combined declaration and power of attorney executed by co-inventor Rainer Bott on his own behalf and on the behalf of the non-signing inventor, Dimitri Korobkov.

Accordingly, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 01 June 2001 under 35 U.S.C. 363, and will be given a date of **22 April 2003** under 35 U.S.C. 371 (c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

19 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Prof. Dr. Dimitri Korobkov
Leerbachstr 50
D-60322
Frankfurt, GERMANY

In re Application of
BOTT, et al.
U.S. Application No.: 10/297,067
PCT No.: PCT/EP01/06276
Int. Filing Date: 01 June 2001
Priority Date: 14 June 2000
Attorney Docket No.: MITS-1-19791
For: SYSTEM FOR TRANSMITTING DATA BY THE FREQUENCY HOPPING METHOD

Dear Dr. Korobkov:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Richard Cole
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration

Lee E. Johnson
Christensen O'Connor Johnson Kindness, PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101
United States of America

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

Pearne & Gordon LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: Guido Petrus Johannes van der Klaauw	: DECISION ON REQUEST FOR
Patent Number	: 7661556	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/297,071	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2003	: ISSUE CERTIFICATE OF CORRECTION

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **788** 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.

18 JUN 2003

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ALEXANDRIA, VA 22313-1450
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C. Bruce Hamburg
JORDAN & HAMBURG
122 East 42nd Street
New York, New York 10168

In re Application of: WINTERBEG, Franz W., et al. U.S. Application No.: 10/297,074 PCT No.: PCT/EP01/04540 International Filing Date: 20 April 2001 Priority Date: 22 April 2000 Attorney's Docket No.: F-7600 For: METHOD FOR PRODUCING RECHARGEABLE LITHIUM-POLYMER BATTERIES AND A BATTERY PRODUCED ACCORDING TO SAID METHOD	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 November 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3). Applicants have now submitted the small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

Applicant's 27 November 2002 submission also included an English translation of the international application and the $130 processing fee for filing the translation later than thirty months after the priority date.

On 17 January 2003, applicants filed a declaration in compliance with 37 CFR 1.497 and the small entity surcharge for filing the declaration later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 35 U.S.C. 371 date is 17 January 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/5/10

TO SPE OF : ART UNIT 1625
SUBJECT : Request for Certificate of Correction for Appl. No.: 10297088
Patent No.: 7560574

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
Approved in Part	Specify below which changes **do not** apply.
Denied	State the reasons for denial below.

Comments: _____

_____

_____

_____

/Janet L. Andres/ 1625
SPE **Art Unit**

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MAR 30 2007

OFFICE OF PETITIONS

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

RECEIVED
MAR 30 2007
OFFICE OF PETITIONS

CANCELLED

In re Application of :
Nakano et al. :
Application No. 10/297089 :
Filing or 371(c) Date: 03/24/2003 :
Attorney Docket Number: :
2002_1503A : ON PETITION

This is a decision on the "Request for Withdrawal of Notice of Abandoment and Entry of response to Office Action, filed January 4, 2007. The petition is properly treated under 37 C.F.R. § 1.181(a). 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 non-final Office action, mailed June 22, 2006. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on September 23, 2006. A Notice of Abandonment was mailed December 29, 2006.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action, including an amendment, a marked-up version of a substitute specification, a clean version of the substitute specification, an Information Disclosure Statement ("IDS") and PTO-1449 with four references, and an extension of time and fee of $1020.00, was filed on December 22, 2006. In support of this assertion, applicant files a copy of the reply, along with a copy of a return-receipt postcard which acknowledges receipt by this Office of an amendment, a substitute specification and abstract (marked-up version), a substitute specification (clean version), an Information Disclosure Statement ("IDS") and PTO-1449 with four references, and a three (3) month extension of time and a check for $1020.00 on December 23, 2006.

A review of Office records also reveals that the Office received an amendment, a substitute specification and abstract (marked-up version), a substitute specification (clean version), an Information Disclosure Statement ("IDS") and PTO-1449 with four references, and a three (3) month extension of time and a check for $1020.00 on December 22, 2006.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 2136 for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

DW

PCT10

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PATENT APPLICATION: **US/10/276,233A** TIME: 17:53:50

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See page 6.

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4 Hitachi Software Engineering Co., Ltd.
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RAW SEQUENCE LISTING DATE: 06/04/2003
PATENT APPLICATION: **US/10/276,233A** TIME: 17:53:50

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Output Set: **N:\CRF4\06042003\J276233A.raw**

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RAW SEQUENCE LISTING DATE: 06/04/2003
PATENT APPLICATION: **US/10/276,233A** TIME: 17:53:50

Input Set : **A:\HIRA34seq.txt**
Output Set: **N:\CRF4\06042003\J276233A.raw**

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RAW SEQUENCE LISTING ERROR SUMMARY DATE: 06/04/2003
PATENT APPLICATION: **US/10/276,233A** TIME: 17:53:51

Input Set : **A:\HIRA34seq.txt**
Output Set: **N:\CRF4\06042003\J276233A.raw**

Please Note:
Use of n and/or Xaa have been detected in the Sequence Listing. Please review the Sequence Listing to ensure that a corresponding explanation is presented in the <220> to <223> fields of each sequence which presents at least one n or Xaa.

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Seq#:12; N Pos. 77,97
Seq#:21; N Pos. 2658,2660,2753
Seq#:22; N Pos. 235,246,247

VERIFICATION SUMMARY DATE: 06/04/2003
PATENT APPLICATION: **US/10/276,233A** TIME: 17:53:51

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Output Set: **N:\CRF4\06042003\J276233A.raw**

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L:2655 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:21 after pos.:2640
M:341 Repeated in SeqNo=21
L:2673 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:22 after pos.:180
M:341 Repeated in SeqNo=22

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DEC 27 2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of:
SAWADA, YASUHIKO et al
Serial No.: 10/297,094
Filed: Aug. 5, 2003
Docket: Q73104
Title: METHOD AND DEVICE FOR PRODUCING GROUND RESIN PARTICLES

DECISION ON REQUEST TO WITHDRAW FINALITY AS PREMATURE

This is a decision on the petition filed on Mar. 8, 2006 to withdraw the finality of the Office Action of Mar. 1, 2006.

The petition is **DISMISSED as moot**.

In his Mar. 8, 2006 request, the applicant requested a withdrawal of the finality of the Office action on Mar. 1, 2006. In support of his petition, the applicant argues that his response under 37 CFR 1.116 filed on Feb. 2, 2006 did not make any amendment to the claims. Therefore, the new final Office action of Mar. 1, 2006 was not necessitated by the response filed on Feb. 2, 2006.

The record shows that:

1) In response to a non-final Office action, on Aug. 24, 2005, the applicant filed an amendment to claims 12,15 and 16.
2) On Nov. 2, 2005, the examiner issued a final Office action with new grounds of rejection because the new grounds of rejection were necessitated by the amendment filed on Aug. 24, 2005.
3) In response to the final Office action of Nov. 2, 2005, the applicant filed a response under 37 CFR 1.116 on June 22, 2005. In the response the applicant argued that the prior art references were not available as prior art to the applicant's claimed invention. The applicant did not allege that the final Office of Nov. 2, 2005 was improper.
4) After consideration of the applicant's response filed under 37 CFR 1.116, on March 1, 2006, the examiner withdrew the finality of the Office action of Nov. 2, 2005 and promulgated another final Office action relying on different combination of prior art references with earlier dates. In the later final Office action, again the examiner alleged that the new grounds of rejections with different combination of prior art references were

necessitated by the amendment filed previously in accordance with MPEP 706.07 and 37 CFR 1.113.

5) On March 8, the applicant filed the current request for withdrawal of finality of office action and issuance of a new office Action.
6) On May 31, 2006, the applicant filed an RCE for further continuing examination of the application.
7) On Aug. 4, 2006, the examiner withdrew the finality of the final Office action of March 1, 2006 and issued a non-final Office action.

In view of the prosecution history of the application, the relief the applicant requested, namely the withdrawal of the finality of the March 1, 2006 Office Action, has already occurred. Moreover, it should be noted that the applicant has acknowledged the request for withdrawal of finality of office action and issuance of a new office Action was mooted in the Remarks of the amendment of May 31, 2006. Accordingly, the petition is dismissed as moot.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3725 for further process. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

16 MAY 2003

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Michael L. Kenaga
Piper Rudnick
P.O. Box 64807
Chicago, IL 60664-0807

In re Application of READ et al	:	
U.S. Application No.: 10/297,098	:	DECISION ON PETITION
Int. Application No.: PCT/GB01/02318	:	
Int. Filing Date: 25 May 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 27 May 2000	:	
Attorney Docket No.: 243115-000027	:	
For: INTERNET COMMUNICATION	:	

This is in response to applicant's "Petition to Revive for Unintentional Abandonment Under 37 CFR 1.137(b)" filed 01 May 2003.

BACKGROUND

On 25 May 2001, applicant filed international application PCT/GB01/02318, which claimed priority of an earlier United Kingdom application filed 27 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 06 December 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 December 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 November 2002.

On 27 November 2002, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission did not include the basic national fee required by 35 U.S.C. 371(c)(1).

On 16 April 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated the application is abandoned as to the United States for failure to timely file the requisite basic national fee.

On 01 May 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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SUITE 200
CLEVELAND OH 44131

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APR 10 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Flaugher, et al. :
Application No. 10/297,102 :
Filed: November 27, 2002 :
Attorney Docket No. SNH 052 P2) 020362 :
052P2

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2006 (certificate of mailing date March 2, 2006), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed October 5, 2005. Accordingly, this application became abandoned on January 6, 2006. The filing of the instant petition precedes the mailing of A Notice of Abandonment .

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the October 5, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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APR 10 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Flaugher, et al. :
Application No. 10/297,102 :
Filed: November 27, 2002 :
Attorney Docket No. SNH 052 P2) 020362 :
052P2

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2006 (certificate of mailing date March 2, 2006), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed October 5, 2005. Accordingly, this application became abandoned on January 6, 2006. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the October 5, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

OK
M Jones
4/20/06

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.