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26 SEP 2003

Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

In re Application of :
PARK, Hyunju et al. :
Application No.: 10/297,120 : DECISION
PCT No.: PCT/KR01/00937 :
Int. Filing Date: 01 June 2001 : ON REQUEST UNDER
Priority Date: 03 June 2000 :
Attorney's Docket No.: SUN-0022 : 37 CFR 1.497(d)
For: CHIP DESIGN VERIFYING AND :
CHIP TESTING APPARATUS :

This is a decision on "Request to Correct Inventorship Pursuant to 37 C.F.R. 1.497(d)," filed in the United States Patent and Trademark Office on 03 July 2003.

BACKGROUND

On 01 June 2001, applicant filed international application PCT/KR01/00937, which claimed a priority date of 03 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 December 2001. On 01 November 2001, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 03 December 2002.

On 03 December 2002, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 July 2003, applicant filed a declaration and the request under 37 CFR 1.497(d).

On 14 July 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

DISCUSSION

The inventor in the international application is Hyunju Park. Applicant requests to add Dong Goo Yun as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the

processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2)and (3) have been satisfied. Applicants have furnished the fee and a statement from the inventor being added that his omission occurred without deceptive intention on his part. Applicants do not indicate that an assignment has occurred, as such it is presumed that the application has not been assigned. If this understanding is incorrect, applicants must supply the consent of the assignee immediately.

The declaration does not satisfy 37 CFR 1.497(a)-(b). It fails to state the citizenship Dong Goo Yun.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.497(d) is **GRANTED**.

Applicants must supply a 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. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497".

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

10 MAR 2004

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Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

In re Application of	:	
PARK, Hyunju et al.	:	
Application No.: 10/297,120	:	DECISION
PCT No.: PCT/KR01/00937	:	
Int. Filing Date: 01 June 2001	:	ON REQUEST UNDER
Priority Date: 03 June 2000	:	
Attorney's Docket No.: SUN-0022	:	37 CFR 1.497(d)
For: CHIP DESIGN VERIFYING AND CHIP TESTING APPARATUS	:	

This is a decision on "Renewed Submission Under 37 CFR 1.497," filed in the United States Patent and Trademark Office on 17 November 2003.

BACKGROUND

On 01 June 2001, applicant filed international application PCT/KR01/00937, which claimed a priority date of 03 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 December 2001. On 01 November 2001, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 03 December 2002.

On 03 December 2002, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 July 2003, applicant filed a declaration and the request under 37 CFR 1.497(d).

On 14 July 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 26 September 2003, the Office mailed Decision On Request Under 37 CFR 1.497(d) granting applicant's request, but indicating that a declaration in compliance with 37 CFR 1.497(a)-(b) was still required as the 03 July 2003 declaration did not comply with 37 CFR 1.497(a)(3).

DISCUSSION

The 17 November 2003 declaration complies with 37 CFR 1.497(a)-(b).

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 the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 17 November 2003.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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26 SEP 2003

Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

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CANTOR COLBURN LLP

In re Application of
PARK, Hyunju et al.
Application No.: 10/297,120
PCT No.: PCT/KR01/00937
Int. Filing Date: 01 June 2001
Priority Date: 03 June 2000
Attorney's Docket No.: SUN-0022
For: CHIP DESIGN VERIFYING AND CHIP TESTING APPARATUS

DECISION

ON REQUEST UNDER

37 CFR 1.497(d)

This is a decision on "Request to Correct Inventorship Pursuant to 37 C.F.R. 1.497(d)," filed in the United States Patent and Trademark Office on 03 July 2003.

BACKGROUND

On 01 June 2001, applicant filed international application PCT/KR01/00937, which claimed a priority date of 03 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 December 2001. On 01 November 2001, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 03 December 2002.

On 03 December 2002, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 July 2003, applicant filed a declaration and the request under 37 CFR 1.497(d).

On 14 July 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

DISCUSSION

The inventor in the international application is Hyunju Park. Applicant requests to add Dong Goo Yun as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the

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Due: November 26
Item: 2-Month Response

2-Month response

No extens

processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2)and (3) have been satisfied. Applicants have furnished the fee and a statement from the inventor being added that his omission occurred without deceptive intention on his part. Applicants do not indicate that an assignment has occurred, as such it is presumed that the application has not been assigned. If this understanding is incorrect, applicants must supply the consent of the assignee immediately.

The declaration does not satisfy 37 CFR 1.497(a)-(b). It fails to state the citizenship Dong Goo Yun.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.497(d) is **GRANTED**.

Applicants must supply a 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. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497".

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

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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SEP 12 2006
OFFICE OF PETITIONS

In re Application of
Nakayama, et al.
Application No. 10/297,128
Filed: June 4, 2003
Attorney Docket No. 3006-0048
For: TOPICAL AGENT FOR DERMATOLOGICAL USE

ON PETITION

This is a decision on the petition, filed April 27, 2006 (certificate of mailing date April 24, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the June 6, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on September 7, 2005. A Notice of Abandonment was mailed on February 24, 2006.

Applicants have submitted an amendment in reply to the June 6, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 6, 2005 non-final Office action, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office. A courtesy copy of this decision is being mailed to petitioner. However, any future correspondence regarding this application will be mailed to the address of record.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1617 for consideration of the amendment filed on April 27, 2006 (certificate of mailing date April 24, 2006).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

In re Application of :
Hiroki Nakayama, et al. :
Application No. 10/297,128 : ON PETITION
Filed: June 4, 2003 :
Attorney Docket No. 753-31 PCT/US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 27, 2006, which set a shortened statutory period for reply of three (3) months. A 2-month extension of time under the provisions of 37 CFR 1.136(a) was obtained; therefore, the application became abandoned on April 28, 2007. A Notice of Abandonment was subsequently mailed on August 9, 2007. On April 14, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 1617 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.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Gerhard Meixner	:	
Application No. 10/297,144	:	ON PETITION
Filed: December 3, 2002	:	
Attorney Docket No. 2361	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 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 January 13, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 14, 2005.

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

This matter is being referred to Patent Publication.

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

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Patrea L. Pabst
Pabst Patent Group, LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, GA 30361

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MAY 3 1 2007

OFFICE OF PETITIONS

In re Application of
Andreas Lendlein et al.
Application No. 10/297,147
Filed: July 28, 2003
Attorney Docket No. MNE 102

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 April 11, 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 Rivka D. Monheit on behalf of all attorneys of record who are associated with customer No. 23579. All attorneys/agents associated with the Customer Number 23579 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy of this decision will be mailed to the address noted on the request. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

A non-final rejection was mailed on January 25, 2007. Failure to timely reply will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Andreas Lendlein
Bergstrasse 35-37
Aachen, Germany 52062

cc: Celine Crowson, Esq.
Hogan & Hartson, LLP
Columbia Square
555 Thirteenth Street
Washington, DC 20004

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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
10/297,147	07/28/2003	Andreas Lendlein	MNE 102

CONFIRMATION NO. 8910

OC000000024143062

23579
PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

Date Mailed: 05/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/11/2007.

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

Kimberly Brabrinet

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

FORMER ATTORNEY/AGENT COPY

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JUL 23 2007
PATENT & TRADEMARK OFFICE

Patrea L. Pabst
Pabst Patent Group, LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, GA 30361

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OFFICE OF PETITIONS

In re Application of
Andreas Lendlein et al.
Application No. 10/297,147
Filed: July 28, 2003
Attorney Docket No. MNE 102

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 April 11, 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 Rivka D. Monheit on behalf of all attorneys of record who are associated with customer No. 23579. All attorneys/agents associated with the Customer Number 23579 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy of this decision will be mailed to the address noted on the request. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

A non-final rejection was mailed on January 25, 2007. Failure to timely reply will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Andreas Lendlein
Bergstrasse 35-37
Aachen, Germany 52062

cc: Celine Crowson, Esq.
Hogan & Hartson, LLP
Columbia Square
555 Thirteenth Street
Washington, DC 20004

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Annahme verweigert	☐ Refusé
Nicht abgeholt	☐ Non réclamé
Nicht zulässig	☐ Non admis

Rücksendung am/Retour le: 07/11/06

Andreas Lendlein
Bergstrasse 35-37
Aachen, Germany 52062

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JUL 23 2007
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OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/297156	12/02/02	BAY, WILLIAM E.	1946/1H215US1

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

EXAMINER	
KUMAR, SHAILENDRA	
ART UNIT	PAPER NUMBER
1621	

DATE MAILED:

NOTICE OF RESCINDED ABANDONMENT

☐ In response to your communication filed 5/16/06

☒ Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.

For Cheryl McFinn
Manager, Publications Division
Office of Patent Publication
571-272-4200

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SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of :
Makoto NAMIKAWA, et al. :
Application No. 10/297,173 : DECISION GRANTING PETITION
Filed: December 3, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **Q72368** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 14, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 25, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Yan Lan 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 in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

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

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WASHINGTON, DC 20037-3213

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NOV 17 2009

OFFICE OF PETITIONS

In re Application of
Makoto NAMIKAWA, et al.
Application No. 10/297,173
Filed: December 3, 2002
Attorney Docket No. **Q72368**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 25, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Yan Lan 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 in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

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

Ex. A. Fortuna

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/10/07

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/297,179 Patent No.: 7201860

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 1723 Art Unit

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06 DEC 2006

Martin Katz
Wood, Phillips, Katz, Clark & Mortimer
Citicorp Center, Suite 3800
500 West Madison Street
Chicago, Illinois 60661

In re Application of
GENESTE et al.
Application No.: 10/297,202
PCT No.: PCT/EP01/06397
Int. Filing Date: 06 June 2001
Priority Date: 06 June 2000
Attorney Docket No.: 51466
For: LIGANDS OF INTEGRIN RECEPTORS

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The renewed petition to revive under 37 CFR 1.137(b) filed 28 November 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "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 an executed declaration and power of attorney 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
Fax: (571) 273-0459

#9

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22 SEP 2006

Martin Katz
Wood, Phillips, Katz, Clark & Mortimer
Citicorp Center, Suite 3800
500 West Madison Street
Chicago, Illinois 60661

In re Application of :
GENESTE et al. :
Application No.: 10/297,202 : DECISION ON PETITION
PCT No.: PCT/EP01/06397 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 06 June 2001 :
Priority Date: 06 June 2000 :
Attorney Docket No.: 51466 :
For: LIGANDS OF INTEGRIN 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 in the Patent and Trademark Office (PTO) on 06 December 2004.

BACKGROUND

On 06 June 2001, applicants filed international application PCT/EP01/06397 which claimed a priority date of 06 June 2000. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 06 December 2002.

On 04 December 2002, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a translation of the international application; and a preliminary amendment.

On 01 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) along with a surcharge for providing the oath or declaration later than 30 months from the priority date was required. The notification set a two (2) month period for response.

On 15 October 2004, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the notification of Missing Requirements mailed 01 May 2003 within the time period set therein.

On 06 December 2004, applicants filed "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)."

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 was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (2)-(4).

With regard to Item (1), the proper response is the submission of the declaration of the inventors which complies with 37 CFR 1.497(a) and (b). A review of the declaration filed on 06 December 2004 reveals that the declaration is not in an acceptable form. Applicants have provided a defective executed composite declaration. Section 201.03(II)(B) of the Manual of Patent Examining Procedure states, in part,

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration.

A review of the declarations filed on 06 December 2004 reveals that the declaration is not in an acceptable form. Petitioner has provided a defective executed composite declaration. A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. The composite declaration is defective because it contains multiple duplicate sheets. This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

Since applicants have not met the requirements for revival of an application under 37 CFR 1.137(b), revival at this time would not be proper.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision 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 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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TIMOTHY J. KLIMA,ESQ.
HARBIN KING & KLIMA
500 NINTH STREET SE
WASHINGTON, DC 20003

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Draghetti et al. :
Application No. 10/297212 : ON PETITION
Filing or 371(c) Date 12/03/2002 :
Attorney Docket Number: TK367 :

This is a decision on the "Letter Requesting Revival of Patent Application or, in the Alternative, Petition Under Rule 1.137(b) to Revive an Unintentionally Abandoned," filed January 16, 2007. Petitioner requests that the Notice of Allowance be redated and reissued with a new term for payment of the issue fee. The petition is properly treated as a petition to withdraw the holding of abandonment based upon non-receipt of an Office communication under 37 CFR 1.181.

This Petition under 37 CFR 1.181(a) is **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed September 22, 2003. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on December 13, 2003. A Notice of Abandonment was mailed January 28, 2004.

Petition under 37 CFR 1.181

Applicant files the present petition and asserts that the Notice of Allowance was never received. Applicant states that a Change of Address was filed on August 11, 2003, along with a Request for original Filing Receipt. In support of this assertion, Applicant provides a copy of a return-receipt postcard which putatively evidences receipt of a Change of Address by this Office on August 11, 2003.

Analysis and conclusion

A review of the return-receipt postcard reveals that this Office acknowledged receipt of a Request for original Filing Receipt on August 11, 2003. There is no Change of Address listed on

the postcard. Applicant also filed a copy of a return receipt postcard date-stamped by this office December 18, 2003, acknowledging receipt of a "Change of Address in Application and Second Request for Original Filing Receipt." Of note is that, while applicant specifically states on this Postcard that the Request for Original Filing Receipt is a Second Request, there is no such reference to the Change of Address as being a Second Request.

The petition to withdraw the holding of abandonment is dismissed.

The petition to revive under 37 CFR 1.137(b)

Applicant's deposit account has been charged the petition, issue and publication fees. Accordingly, the petition is granted.

The application is being referred to Publishing Division for processing into a patent.

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

Derek L. Woods
Attorney
Office of Petitions

30 AUG 2006

United States Patent and Trademark Office

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Baker & Daniels
Suite 800
111 East Wayne Street
Fort Wayne IN 46802

In re Application of :
Mohrs et al. :
Application No. 10/297,226 :
PCT No.: PCT/DE01/02065 :
Int. Filing Date: 31 May 2001 : DECISION
Priority Date: 02 June 2000 :
Atty. Docket No.: RBL0096 :
For: Method And Arrangement For :
Securing A Man-Machine Dialogue :

This is in response to the requests for correction of filing receipt filed on 28 July 2003 and 25 June 2004.

BACKGROUND

This international application was filed on 31 May 2001, designated the United States, and claimed an earliest priority date of 02 June 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 06 December 2001. The United States was elected in a Demand 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 02 December 2002. Applicants filed *inter alia* the basic national fee on 02 December 2002.

On 21 January 2003, applicants filed an executed declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 24 March 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497 (a) and (b).

On 26 June 2003, applicants filed a response, which has been treated as a petition under 37 CFR 1.181, along with a declaration.

On 11 July 2003, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be "06/21/2003."

DISCUSSION

In the submission filed on 26 June 2003, counsel presents a copy of a return postcard receipt as evidence of the receipt of a declaration of the inventors on 21 January 2003. Review of the application file reveals that the declaration filed on 21 January 2003 is present in the application file, that it was in compliance with the requirements of 37 CFR 1.497(a) and (b), and

that the requisite surcharge under 37 CFR 1.492(e) was also paid on that date. As such, the constructive petition based on the postcard receipt is **DISMISSED AS MOOT**. Moreover, the mailing of the 24 March 2003 Notification of Missing Requirements was inappropriate, and the 11 July 2003 Notice of Acceptance was in error. Accordingly, both the 24 March 2003 Notification of Missing Requirements and the 11 July 2003 Notice of Acceptance are hereby **VACATED**.

CONCLUSION

The petition is **DISMISSED**, without prejudice, as discussed *supra*.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **21 January 2003**.

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

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

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CLARK & ELBING
101 REDERAL STREET
BOSTON, MA 02110

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MAY 18 2004

OFFICE OF PETITIONS

In re Application of :
Jeffrey A. Hubbell et al :
Application No. 10/297,229 : NOTICE
Filed: March 24, 2003 :
Attorney Docket No. 50154/003002 :

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 1637.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Kagan Binder, PLLC
Ste. 200, Maple Island Building
221 Main St. North
Still Water, MN. 55082

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AUG 2 0 2004

OFFICE OF PETITIONS

Applicant: Dickopf et al.
Appl. No.: 10/297,244
Filing Date: July 30, 2002
Title: SURFACE FOR IMMOBILIZATION OF LIGANDS
Attorney Docket No.: VOS0010/US
Pub. No.: US 2004/0023366 A1
Pub. Date: February 5, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on March 9, 2004 for the above-identified application.

The request is granted.

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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JUL 2 8 2004

OFFICE OF PETITIONS

OPPEDAHL AND LARSON LLP
P.O. BOX 5068
DILLON CO 80435-5068

In re Application of	:
John K. Stevens	:DECISION GRANTING FILING
Application No. 10/297,246	:DATE OF DECEMBER 3, 2002
Filed: December 3, 2002	:
Attorney Docket No. JKMS.P-007	:

This is a decision on the paper filed December 18, 2002, which is being treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of December 3, 2002.

Petitioners allege that the application was deposited in Express Mail service on December 3, 2002. In support, the petition is accompanied by a copy of Express Mail receipt No. EL556128474US (the same Express Mail receipt number appears on the original application transmittal letter) showing a "date in" of December 3, 2002.

In view of the evidence in the file, it is concluded that the application was deposited in Express Mail service on December 3, 2002. Accordingly, the instant application is entitled to a filing date of December 3, 2002 and has been so accorded. A filing receipt with the corrected filing date was mailed on June 18, 2004.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.

This application is being referred to Technology Center Art Unit 2876.

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

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NATH & ASSOCIATES
112 SOUTH WEST ST
ALEXANDRIA VA 22314

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DEC 14 2005

OFFICE OF PETITIONS

In re Application	:
Andreas Klatt	: DECISION ON APPLICATION FOR
Application No. 10/297,257	: PATENT TERM ADJUSTMENT
Filed: December 4, 2002	:
Attorney Docket No. 25223	:
	:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed November 3, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from fifty-one (51) days to fifty-four (54) days.

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

On August 23, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is fifty-one (51) days. On November 3, 2005, Applicant timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is fifty-four (54) days.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

---

[1] Applicant filed the application for patent term adjustment on the same date as the issue fee.

The Office initially determined a patent term adjustment of fifty-one (51) days based on an adjustment for PTO delay of one hundred twenty-one (121) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicant's delays of three (3), sixty (60), and seven (7) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The adjustment of three (3) days is at issue.

Applicant argues that he timely responded to a June 4, 2004 non-final Office action on September 7, 2004. According to applicant, because September 4, 2004 fell on a Saturday and because September 6, 2004 fell on a federal holiday, September 7, 2004 was the next succeeding business day and was therefore timely.

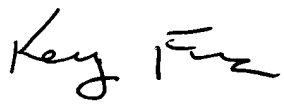
Applicant was properly assessed delay of three (3) days for filing an amendment on September 7, 2004, in response to an Office action mailed on June 4, 2004. 35 U.S.C. 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three month period. Therefore, the "carry-over" provision of 35 U.S.C. 21(b) does not apply to the three month period in 35 U.S.C. 154(b)(2)(C)(ii).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **fifty-one (51)** days (121 days of PTO delay reduced by 70 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

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

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



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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/15/05

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 10/~~8~~97,276 6,825,197

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

Note your decision on the appropriate box.

(ZACHARY C. TUCKER)

☒ **Approved** 21 SEPTEMBER '05 — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

_____

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SPE — 1624 **Art Unit**

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

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OFFICE OF PETITIONS

In re Application of :
Masato Mitsuhashi et al :
Application No. 10/297,277 : DECISION GRANTING PETITION
Filed: December 4, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. HITACHI.046NP :

This is a decision on the petition, filed January 9, 2007, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

It is noted that this application was previously withdrawn from issue under 37 CFR 1.313(b) by the Director of the Technology Center on January 11, 2007 based on a mistake on the part of the Office. It is further noted that the Examiner treated the request for continued examination as noted in the Notice of Allowability mailed February 1, 2007. Accordingly, as the Office accepted the request for continued examination, it is appropriate here to treat the present petition as one requesting withdrawal from issue under the provisions of 37 CFR 1.313(c)(2). Although the present petition under 37 CFR 1.313(c)(2) was not granted prior to the mailing of the Notice of Allowability on February 1, 2007, the actions taken prior to the granting of this decision on petition by the Technology Center are hereby ratified.

Petitioner is advised that the issue fee paid on November 6, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Publishing Division to await a reply to the Notice of Allowability and Fee(s) Due, mailed February 1, 2007. Petitioner is advised that failure to timely reply will result in the abandonment of the application.

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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0 1 AUG 2003

BAYER POLYMERS LLC
100 BAYER ROAD
PITTSBURGH PA 15205-9741

In re Application of
BRANDT (deceased)
Application No.: 10/297,293
PCT No.: PCT/EP01/05971
Int. Filing Date: 25 May 2001
Priority Date: 06 June 2000
Attorney Docket no.: PO7565/LeA 34, 398
For: METHOD FOR PRODUCING STABLE, COLOR-LESS BUTADIENE RUBBERS

DECISION ON

SUBMISSION

UNDER 37 CFR 1.42

This is a decision on the submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 02 April 2003.

On 04 December 2002, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee. On 24 March 2003, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) & (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 02 April 2003, in order to satisfy the requirement that an oath or declaration of the inventors be furnished, applicants filed a declaration that was signed by Martina Brandt, Franziska Hanne Brandt and Inken Margarethe Brandt as "heirs" for inventor Heinz-Dieter Brandt (deceased). The declaration was also executed by joint inventors Rolf Peter and Bernd Stollguß. The declaration provided the citizenship, residency and mailing address of the inventors and the heirs as well as the last known address, residency and citizenship of the deceased inventor. Additionally, counsel for applicant provided a certified copy of Joint Certificate of Inheritance for Heinz-Dieter Brandt and English translation thereof which states the names and relationships of the three (3) heirs of the deceased inventor. The requirements of 37 CFR 1.497 have been met.

Accordingly, it is appropriate to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is presently **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is 02 April 2002.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (703) 306-5467

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Date : January 27, 2007

Patent No. : 7,112,680 B2
Inventor(s) : Hofmann, et al.
Issued : September 26, 2006
Title : **HETEROCYCLIC HYDRAZONES FOR USE AS ANTI-CANCER AGENTS**
Docket No. : 4388-0103P

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

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

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE ROAD
SUITE 100 EAST
FALLS CHURCH, VA 22315

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : September 23, 2007

Patent No. : 7112680 B2
Application No : 10/297306
Inventor(s) : Hofmann et al.
Issued : Sep. 26, 2006
Title : **HETEROCYCLIC HYDRAZONES FOR USE AS ANTI-CANCER AGENTS**
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

CBN/eme

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Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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DEC 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,112,680	:	
Issue Date: September 26, 2006	:	
Application No. 10/297,306	:	DECISION ON PETITION
Filed: December 04, 2002	:	
Attorney Docket No. 4388-0103P	:	

This is a decision on the petition filed June 02, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-4231. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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ALEXANDRIA, VA 22313-1450
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10 SEP 2003

OPPEDAHL AND LARSON LLP
P O BOX 5068
DILLON CO 80435-5068

In re Application of	:	
WESTMAN et al.	:	
Application No.: 10/297,309	:	DECISION ON
PCT No.: PCT/SE01/01286	:	
Int. Filing Date: 07 June 2001	:	PETITION
Priority Date: 07 June 2000	:	
Attorney Docket No.: GOTE.P048	:	
For: SOLID PHASE SYNTHESIS OF CYANINE DYES	:	

This is a decision on applicants' submission filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 16 July 2003, which has been treated as a petition under 37 CFR 1.182. The petition fee of $130.00 has been charged to counsel's Deposit Account No. 15-0610. The petition is **GRANTED** as discussed below.

On 03 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee. The transmittal letter requested that the application papers be processed as the national stage application of international application PCT/US01/01286.

On 09 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, the international application number as PCT/US01/01286, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required, and that the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date was also required.

On 16 July 2003, applicants filed the instant submission, which has been treated as a petition under 37 CFR 1.182.

A review of the application file including counsel's statements in the instant submission, as well as a review of the USPTO file for PCT/US01/01286, reveals that the indication of international application PCT/US01/01286 was incorrect, and that the present application should in fact be the national stage application of international application PCT/**SE**01/01286.

09/11/2003 GFREY1 00000168 150610 10297309

01 FC:1460 130.00 DA

Accordingly, the NOTIFICATION OF MISSING REQUIREMENTS mailed 09 July 2003 is hereby VACATED. It is noted, however, that the requirements for an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) were correct with respect to the above-identified application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing in accordance with this decision, that is for: (1) correcting PALM to indicate that the above-identified application is the national stage of PCT/**SE**01/01286 rather than PCT/US01/01286; and (2) mailing of a new NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating the international application as PCT/SE01/01286 and that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date are required.

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

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OPPEDAHL AND LARSON LLP
P O BOX 5068
DILLON CO 80435-5068

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OFFICE OF PETITIONS

In re Application of
Sandstrom
Application No. 10/297,309
Filed: September 29, 2003
For: Solid Phase Synthesis of Cyanine Dyes
Attorney Docket No: GOTE.P-048
Pub. No.: US 2004/0044219 A1
Pub. Date: March 4, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on June 15, 2004, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error on the front page of the publication as the title of the invention "Solid Phase Synthesis of Cyanine Dyes" is misprinted as "PROBE FOR ANALYSIS OF NUCLEIC ACIDS".

Petitioner states that on March 23, 2004, the office of Applicant's attorney contacted the publication division of the USPTO to inquire about correcting the title on the pre-grant publication and was contacted by Mark Polutta on March 26, 2004 and told that the Office would not change the title, as it was not a material error. Applicant then states that on June 10, 2004, the attorney's office again contacted Mr. Polutta to find out if something could be done to change the title and that Mr. Polutta said that an error in the title is never a material error. Petitioner argues that the title of the invention is very significant in communicating and putting the public on notice of what is technically disclosed in the publication. Petitioner further argues that the Manual of Patent Examining Procedure states that the title should be brief but technically accurate and descriptive and that the Manual further allows the examiner to require a new title. Petitioner argues that the error in the title results in a loss of informative value in indexing, classifying, and searching affects the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent and is therefore a material error. Petitioner states that she is aware that a request for a corrected publication must be filed within two months from the date of publication. Petitioner argues that the Office should consider the instant petition a request for reconsideration of Mr. Polutta's original denial of correcting the title of the invention in Applicant's published application.

37 CFR 1.221(b) states "Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." .[1] The request for corrected publication received on June 15, 2004, was not timely filed under 37 CFR 1.221(b), and has not been considered because it was not timely filed.

The application was published on March 4, 2004. Petitioner alleges that this request should be treated as a request for reconsideration of the initial telephone inquiry on March 23, 2004 and March 26, 2004. Business to be conducted before the United States Patent and Trademark Office is to be transacted in writing. See 37 CFR 1.2 and 37 CFR 1.4. The telephone conversation cannot be considered to have been a request for corrected publication because it was not in writing. Furthermore, communications with the Office are supposed to be with the applicant, or his or her registered representative. See 37 CFR 1.31. Neither applicant, nor a registered practitioner representing applicant made the telephone call. An inquiry by a nonregistered practitioner cannot be considered a request for corrected publication.

Petitioner's states that the request for "Correction to Patent Application Publication Due to USPTO Error (Reconsideration Requested)" is, in effect, a petition requiring suspension of the rules under 37 C.F.R. § 1.183. Suspension of the rules may be granted only "[i]n an extraordinary situation, when justice requires ...." The rule places the determination of whether a situation is "extraordinary," and whether justice requires waiver, within the discretion of the Commissioner of Patents and Trademarks. *Nitto Chem. Indus. Co. v. Comer,* 39 USPQ2d 1778, 1780 n.4 (D.D.C. 1994). The facts presented on the record do not establish an extraordinary situation within the meaning of § 1.183. Petitioner was aware of the error in the title within the appropriate period of time for filing a request for a corrected publication. The standard for evaluating "material error" in which the Office would publish a corrected patent application publication pursuant to 37 CFR 1.221(b) was explained to petitioner. While titles are important, on October 10, 2003, a Filing Receipt was mailed listing the title as "PROBE FOR ANALYSIS OF NUCLEIC ACIDS". Petitioner's representative could have filed a request for a corrected filing receipt by faxing the request to the facsimile number (703-746-9195) as shown on the Filing Receipt, but such a request for correction was not made. Furthermore, Petitioner may make a request for republication under 37 CFR 1.221(a).[2] In this application, Petitioner has not established special circumstances or equities that would require suspension of the rules in the interests of justice.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark

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[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2]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, but the processing fee will be retained. Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system

Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). While the fee has not been paid, the petition has been treated as a request for a corrected patent publication under 37 CFR 1.221(b).

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) 872-9306

Inquires concerning this communication should be directed to Mark Polutta at (571) 308-8122 (voice) or (703) 746-3465 (facsimile).

Karin Ferriter
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

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Commissioner for Patents
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P.O. Box 1450
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Donald S Dowden
1185 Avenue of the Americas
New York NY 10036

COPY MAILED
JAN 13 2009

In re Application of
Makino
Application No. 10/297,318
Filed: December 4, 2002
Attorney Docket No. 2710/68532
For: BIOLOGICALLY ACTIVE AGENTS AND DRUGS

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 18, 2008 (certificate of mailing date December 15, 2008), to withdraw the holding of abandonment. In addition, this decision addresses the petition under 37 CFR 1.137(b), filed in the alternative in the same paper as the petition under 37 CFR 1.181.

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

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the August 13, 2003 non-final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on November 14, 2003. A Notice of Abandonment was mailed on March 24, 2004 and was subsequently returned to the Office on April 9, 2004.

Petitioner alleges that the August 13, 2003 non-final Office action was not received at the correspondence of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has submitted a copy of the docket record where the requirement would have been entered had the August 13, 2003 non-final Office action been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the application's file jacket and docket record for the August 13, 2003 non-final Office action was fruitless. The now retired attorney of record and the attorney handling the prosecution of this application have provided statements regarding the non-receipt of the August 13, 2003 non-final Office action and the failure to be aware of the alleged abandonment of the application.

Petitioner has established non-receipt. The petition under 37 CFR 1.181 is **granted** and the holding of abandonment is withdrawn. The petition under 37 CFR 1.137(b) is **dismissed as moot**. No petition fee has been or will be charged in connection with this matter.

Petitioner has filed a response to the August 13, 2003 non-final Office action with the present petition. As such, there is no need to re-mail the August 13, 2003 non-final Office action with a new period set for reply.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

After the mailing of this decision, the application will be returned to Technology Center A.U. 1616 for consideration of the amendment filed on December 18, 2008 (certificate of mailing date December 15, 2008).

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: CHRISTOPHER C. DUNHAM
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

26 FEB 2003

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#6

Benjamin J. Hauptman
Lowe Hauptman Gilman & Berner, LLP
1700 Diamond Road, Suite 310
Alexandria, VA 22314

In re Application of :
SHEFFER :
Application No.: 10/297,322 : DECISION ON PETITION
PCT No.: PCT/IL01/00112 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 04 February 2001 :
Priority Date: 03 February 2000 :
Attorney Docket No.: 1268-185 :
For: A MEDICAL INSTRUMENT FOR USE IN CATARACT SURGERY AND A METHOD FOR USE THEREOF :

The petition to revive under 37 CFR 1.137(b) filed 05 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee of $445 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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 $65 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/297,345	06/23/2003	Federico Mailland	3075-001	2351

7590 01/15/2004

Luke A Kilyk
Kilyk & Bowersox
53 A East Lee Street
Warrenton, VA 20186

EXAMINER	
CHANNAVAJJALA, LAKSHMI SARADA	
ART UNIT	PAPER NUMBER
1615	

DATE MAILED: 01/15/2004

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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ALEXANDRIA, VA 22313-1450
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DEC 29

LUKE A KILYK
KILYK & BOWERSOX
53 A EAST LEE STREET
WARRENTON VA 20186

In re Application of
Federico Mailland
Serial No.: 10/297,345
Filed: November 21, 2002
Attorney Docket No.: 3075-001

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed November 19, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

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

#5

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

In re Application of:	
LAI, Chunrong, et al.	
U.S. Application No.: 10/297,354	DECISION ON PETITION TO
PCT No.: PCT/CN01/00541	REVIVE ABANDONED
International Filing Date: 03 April 2001	APPLICATION UNDER
Priority Date: None	37 CFR 1.137(b) AND
Attorney's Docket No.: 42390.P10704	PETITION UNDER
For: METHOD, APPARATUS, AND SYSTEM FOR BUILDING A COMPACT LANGUAGE MODEL FOR LARGE VOCABULARY CONTINUOUS SPEECH RECOGNITION (LVCSR) SYSTEM	37 CFR 1.47(a)

This decision is issued in response to applicants' petitions under 37 CFR 1.137(b) and 1.47(a) filed on 10 January 2005. Applicants have paid the required petition fees.

BACKGROUND

On 23 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required. The Notification also informed applicants that the failure to submit these materials within two months of the date of the Notification would result in abandonment of the application.

Applicants failed to file a response to the Notification Of Missing Requirements. Accordingly, on 06 October 2004, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements.

On 10 January 2005, applicants filed the petitions considered herein, with accompanying materials.

DISCUSSION

A. Petition Under 37 CFR 1.47(a)

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or

declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort. As discussed below, applicants here have failed to satisfy items (3) and (4).

With respect to item (3), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have not submitted an acceptable declaration executed by the other inventors on behalf of themselves and the nonsigning inventor. The four pages of declaration appear to be a compilation of more than one copy of the declaration (there are two copies of page "2," one executed by each of the signing inventors). Such compilation is impermissible. See MPEP § 201.03: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration". Applicants must submit complete versions of declarations executed by the signing inventors which comply with the requirements of 37 CFR 1.497 and which can be accepted as having been signed by these inventors on their own behalf and on behalf of the nonsigning inventor. Until such materials are submitted, item (3) is not satisfied.

Regarding item (4), applicants' have provided a statement from Judy L. Steinkraus, with exhibits thereto. The statement provides firsthand evidence that Ms. Steinkraus has had registered mail returned as undeliverable from the nonsigning inventor's last-known address, has requested new contact information for this inventor from his former employer's local and corporate offices (including directly contacting the inventor's former manager and one of the co-inventors herein). However, applicants have not provided evidence of any efforts made to locate the nonsigning inventor through sources outside his former employer (i.e., internet searches, telephone number inquiries, etc.) Absent evidence of further efforts made to locate the nonsigning inventor, item (4) is not considered satisfied.

Applicants have failed to satisfy all the requirements of a grantable petition under 37 CFR 1.47(a). The petition is therefore not grantable on the present record.

B. Petition For Revival (37 CFR 1.137(b)

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). Applicants here have failed to satisfy item (1).

Regarding item (1), the "required reply," section 711.03(c) of the Manual of Patent Examining Procedures states that:

> [g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.

Here, the "required reply" was a proper response to the Notification Of Missing Requirements, that is, an executed declaration in compliance with 37 CFR 1.497 and surcharge payment. As noted above, applicants have not submitted an acceptable declaration, or a grantable petition under 37 CFR 1.47(a) (the surcharge payment has been received). Accordingly, applicants have not submitted the "required reply." Item (1) is not satisfied.

Because applicants have not satisfied all the requirements for a grantable petition under 37 CFR 1.137(b), the application remains abandoned.

CONCLUSION

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

Applicants' petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of these petitions 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 Petitions Under 37 CFR 1.47(a) and 37 CFR 1.137(b)" and should include proper and complete declarations executed by the signing inventors and adequate firsthand evidence that the nonsigning inventor cannot be located after diligent effort, as discussed above. No additional petition fees are required.

Please direct further correspondence with respect to this matter 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
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

08 AUG 2005
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47

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

In re Application of:	
LAI, Chunrong, et al.	
U.S. Application No.: 10/297,354	DECISION ON RENEWED
PCT No.: PCT/CN01/00541	PETITIONS UNDER
International Filing Date: 03 April 2001	37 CFR 1.137(b) AND
Priority Date: None	37 CFR 1.47(a)
Attorney's Docket No.: 42390.P10704	
For: METHOD, APPARATUS, AND SYSTEM FOR BUILDING A COMPACT LANGUAGE MODEL FOR LARGE VOCABULARY CONTINUOUS SPEECH RECOGNITION (LVCSR) SYSTEM	

In a decision mailed by this Office on 23 February 2005, applicants' petitions under 37 CFR 1.47(a) were dismissed without prejudice for failure to satisfy the requirements of grantable petitions under these regulations.

On 29 July 2005, applicants filed the renewed petitions considered herein.[1]

A. Renewed Petition Under 37 CFR 1.47(a)

The original petition under 37 CFR 1.47(a) was dismissed because applicants had failed to provide an acceptable oath or declaration by the other inventors on behalf of themselves and the non-signing inventor and adequate proof that the nonsigning inventor could not be reached after diligent effort.

The renewed petition includes complete three page declarations executed by two of the three inventors with the signature block of the nonsigning inventor left blank. This may be treated as having been signed by the available inventors on their own behalf and on behalf of the nonsigning inventor, satisfying the declaration requirement of a grantable petition.

With respect to the attempt to locate the nonsigning inventor, applicants have supplemented their previous submission with copies of the results of recent unsuccessful internet searches conducted in or der to locate the nonsigning inventor. These materials, in combination

[1] It is noted that, upon receipt of the 29 July 2005 submission, Deposit Account No. 02-2666 was charged second petition fees for both petitions. These duplicative petition fees will be refunded to Deposit Account 02-2666.

with the previously submitted materials, are accepted as evidence that a diligent effort has been made to locate the nonsigning inventor.

Based on the above, applicants have now satisfied the all the requirements of a grantable petition under 37 CFR 1.47(a).

B. Renewed Petition For Revival (37 CFR 1.137(b)

Applicants' original petition for revival was dismissed without prejudice for failure to include the "required reply," that is, an acceptable oath or declaration under 37 CFR 1.497, or a grantable petition under 37 CFR 1.47(a). As noted above, the present submission includes a grantable petition under 37 CFR 1.47(a). Accordingly, applicants have now submitted the "required reply," and the additional requirements of 37 CFR 1.137(b) have been satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of nonsigning inventor Jielin PAN.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 29 July 2005.

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

08 AUG 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jielin PAN
302, Unit 3, Dongwangzhuang
Haidian District
Beijing 100083
CHINA

In re Application of: LAI, Chunrong, et al.
U.S. Application No.: 10/297,354
PCT No.: PCT/CN01/00541
International Filing Date: 03 April 2001
Priority Date: None
Attorney's Docket No.: 42390.P10704
For: METHOD, APPARATUS, AND SYSTEM FOR BUILDING A COMPACT LANGUAGE MODEL FOR LARGE VOCABULARY CONTINUOUS SPEECH RECOGNITION (LVCSR) SYSTEM

Dear Mr. PAN:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a). Should a patent be granted, you will be designated as an inventor.

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

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

Counsel of Record:
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

27 MAY 2003

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Lisa Ryan-Lindquist
Vidas, Arrett & Steinkraus, P.A.
6109 Blue Circle Drive, Suite 2000
Minnetonka, NM 55343-9185

In re Application of :
JANG, G. David :
Application No.: 10/297,372 : DECISION ON PETITION
PCT No.: PCT/US01/18419 :
Int. Filing Date: 05 June 2001 :
Priority Date: 05 June 2000 :
Attorney Docket No.: S63.2-10784-US02 :
For: INTRAVASCULAR STENT WITH INCREASING COATING RETAINING CAPACITY

This is a decision on applicants' "Express Abandonment of Application (37 C.F.R. 1.138)" filed 13 January 2003 and facsimile communication "Request to Withdraw Express Abandonment" filed on 31 January 2003.

BACKGROUND

On 05 June 2001, applicants filed international application PCT/US01/18419 which claimed a priority date of 05 June 2000. A Demand for preliminary examination was filed prior to the expiration of the 19 months from the priority date. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 05 December 2002.

On 05 December 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States, which accompanied by, inter alia,: the requisite basic national fee and a copy of the international application.

On 13 January 2003, applicants filed "Express Abandonment of Application under 37 C.F.R. 1.138."

On 31 January 2003, applicants filed "Request to Withdraw Express Abandonment."

On 21 March 2003, the United States Patent and Trademark Office mailed "Notice of Abandonment" indicating that "the letter of Express Abandonment filed on 13 January 2003 is acknowledged."

DISCUSSION

As stated above, applicants filed "Express Abandonment of Application" under 37 CFR 1.138. 37 CFR 1.138 states, in part:

> (a) An application may be expressly abandoned by filing a written declaration of abandonment identifying the application in the United States Patent and Trademark Office . . .
>
> (b) A written declaration of abandonment must be signed by a party authorized under § 1.33(b)(1), (b)(3), or (b)(4) to sign a paper in the application, except as otherwise provided in this paragraph . . .

The request for express abandonment does not comply with the requirements under 37 CFR 1.138. A review of the application file reveals that counsel has not been appointed as applicants' attorney and the express abandonment is executed by a party not authorized under 37 CFR 1.33(b)(1). Therefore, the request to withdraw the application under 37 CFR 1.138 cannot be granted.

The Notice of Abandonment mailed 21 March 2003 was mailed in error and is hereby vacated and the Request to Withdraw Express Abandonment filed 31 January 2003 is **DISMISSED** as moot.

CONCLUSION

For the reasons above, the Request for Express Abandonment under 37 CFR 1.138 filed 13 January 2003 is **DISMISSED** without prejudice.

The Request to Withdraw Express Abandonment filed 31 January 2003 is **DISMISSED** as moot.

The Notice of Abandonment mailed 21 March 2003 was mailed in error and is hereby vacated.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

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

TMN

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
10/297,387	~~12/06/2002~~ 12/31/2002	2876	1020	114307	1	4	1

CONFIRMATION NO. 1790

CORRECTED FILING RECEIPT

OC000000012323017

Oliff & Berridge
PO Box 19928
Alexandria, VA 22320

IPE JC10 APR 27 2004 PATENT & TRADEMARK OFFICE

RECEIVED APR 12 2004 OLIFF & BERRIDGE

Date Mailed: 04/09/2004

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

Applicant(s)

Francis Couvelaere, Montherot, FRANCE;
Michel Perfetti, Douar Nevez, FRANCE;

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/FR01/01752 06/07/2001

Foreign Applications

FRANCE 00/07321 06/08/2000

If Required, Foreign Filing License Granted: 04/08/2004

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Process to extend the encoding capacities of the pdf 417 bar code

Preliminary Class

235

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

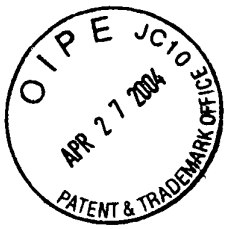
The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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



Receipt
IMAGE

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Attn: OIPE

Francis COUVELAERE et al.

Application No.: 10/297,387

Docket No.: 114307

Filed: December 31, 2002

For: PROCESS TO EXTEND THE ENCODING CAPACITIES OF THE PDF 417 BAR CODE

REQUEST FOR CORRECTION OF PALM RECORDS

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

Sir:

Attached is a photocopy of the original filing receipt on which errors have been corrected in red. These errors are being brought to the attention of the Patent and Trademark Office so that it may correct its records.

Respectfully submitted,

William P. Berridge
Registration No. 30,024

Thomas J. Pardini
Registration No. 30,411

WPB:TJP/amo

Date: April 27, 2004

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

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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NOV 28 2005

OFFICE OF PETITIONS

In re Application of :
Takamune et al. :
Application No. 10/297,434 : DECISION ON PETITION
Filed: May 19, 2003 :
Attorney Docket No. Q72274 :

This is a decision on the petition under 37 CFR 1.183, filed March 17, 2005, to waive 37 CFR 1.312 and permit the entry of the amendment filed concurrently.

Applicants stated that the Office mailed a "Notice Regarding Drawings," on January 19, 2005, nine months after payment of the issue fee. The Notice set a two-month period to correct the drawing informalities. Applicants requested waiver of 37 CFR 1.312 to permit applicants to amend the specification to conform the same to the corrected drawings. Applicants asserted that they could not have anticipated the changes to the specification because the USPTO did not object to the drawings until after payment of the issue fee.

A review of the record indicates that on November 10, 2005, the Office mailed a "Response to Rule 312 Communication," stating that the amendment filed on March 17, 2005 under 37 CFR 1.312 had been considered and was entered. A copy of the Response accompanies this decision.

In view of the above, the petition is dismissed as involving a moot issue. Accordingly, the $400.00 petition fee is unnecessary and will be refunded to Deposit Account No. 19-4800, as requested.

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

Enclosure: Response to Rule 312 Communication (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Dennis J Dupray
1560 Broadway, Suite 1200
Denver, CO 80202-5141

In re Application of	:	
DUPRAY	:	
Application No.: 10/297,449	:	DECISION ON
PCT No.: PCT/US01/17957	:	
Int. Filing Date: 04 June 2001	:	PETITION UNDER
Priority Date: 02 June 2000	:	
Attorney Docket No.: 1010-PUS	:	37 CFR 1.137(b)
For: A WIRELESS LOCATION GATEWAY	:	
AND APPLICATIONS THEREFOR	:	

This decision is in response to applicant's "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION PURSUANT TO 37 C.F.R. § 1.137(b)" filed 06 December 2002.

BACKGROUND

On 04 June 2001, applicant filed international application PCT/US01/17957, which claimed a priority date of 02 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 December 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 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 02 December 2002.

On 06 December 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, a declaration of the inventor, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the earliest priority date, and the instant "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION PURSUANT TO 37 C.F.R. § 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee for a small entity on 06 December 2002.

As to item (2), applicant submitted the petition fee for a small entity on 06 December 2002.

With regard to item (3), petitioner's statement that "[t]he entire delay in entering the U.S. national phase was unintentional" has been construed 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." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 06 December 2002 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

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

26 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Woodcock Washburn
One Liberty Place-46th Floor
Philadelphia, PA 19103

In re Application of
DOLBIER et al.
Serial No.: 10/297,454
PCT No.: PCT/US00/40437
Int. Filing Date: 20 July 2000
Priority Date: 21 July 1999
Attorney's Docket No.: UPN-4209
For: PREPARATION OF COMPOUNDS USEFUL FOR THE DETECTION OF HYPOXIA

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

The petition to revive under 37 CFR 1.137(b) filed 06 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $355 has been paid. The required petition fee of $640 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 including the issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors and the surcharge for filing the oath or declaration after the 30 month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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United States Patent and Trademark Office
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ONE LIBERTY PLACE 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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JUL 11 2006

OFFICE OF PETITIONS

In re Application of :
William R. Dolbier et al :
Application No. 10/297,454 : ON PETITION
Filed: May 15, 2003 :
Attorney Docket No. UPN-4209 :

This is a decision on the petition, filed July 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES 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 : July 11, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :William R. Dolbier et al
Application No. :10/297,454
Filed :May 15, 2003

The above-identified application has been assigned Patent No. 7,078,530 and an issue date of July 18, 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 18, 2006:

"All reference to Patent No. 7,078,530 to William R. Dolbier et al of Florida for PREPARATION OF COMPOUNDS USEFUL FOR THE DETECTION OF HYPOXIA appearing in the Official Gazette of July 18, 2006 should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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Commissioner for Patents
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OFFICE OF PETITIONS

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

In re Application of :
Raymond George Montague Kisch :
Application No. 10/297,455 : ON PETITION
Filed: May 5, 2003 :
Attorney Docket No. TKK/301 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 9, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 7, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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

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

By 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: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/297,455	**Applicant(s)** KISCH, RAYMOND GEORGE MONTAGUE
	Examiner Tri M. Mai	**Art Unit** 3781

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

THE REPLY FILED 09 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

Tri M. Mai
Primary Examiner
Art Unit: 3781

Continuation of 11. does NOT place the application in condition for allowance because: The request for reconsideration on 04/09/07 does not place the application in condition for allowance. Even to the degree that the affitdavit were to be considered. The improvement is only over the attachment of the slot as this feature is obvious as set forth in the previous Office Action.

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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.
10/297,458	06/02/2003	Kenichi Kano	0979290-5532	4790

26263 7590 03/14/2005

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

EXAMINER	
SELLS, JAMES D	
ART UNIT	**PAPER NUMBER**
1734	

DATE MAILED: 03/14/2005

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

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MAR 11 2003

In re Application of	:	
KANO, KENICHI	:	NOTICE OF WITHDRAWAL
Serial No.10/297458	:	FROM ISSUE
Filed: December 6, 2002	:	UNDER 37 CFR 1.313(b)
For: PLATE FOR HOT PRESSING, HOT	:	
PRESS DEVICE, AND CARD MANUFAC-	:	
TURING DEVICE	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Christopher Fiorilla at (571) 272-1187.

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

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

cc: Allowed Files—Pk3-910

08 JUL 2004
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Randall B. Bateman
4 Triad Center, Suite 825
PO Box 1319
Salt Lake City, Utah 84110

In re Application of :
Ulrich Barth, et al :
Application No.: 10/297,462 :
PCT Application No.: PCT/EP01/06412 : DECISION ON
International Filing Date: 06 June 2001 :
Priority Date: 08 June 2000 : PETITION UNDER
Attorney Docket No.: 2474.GLE.PT :
For: REFRIGERATION UNIT : 37 CFR 1.137 (b) AND

37 CFR 1.47 (a)

This is in response to applicants petition to revive the above application from abandonment and petition to permit filing under 37 CFR 1.47 (a), filed on 06 February 2004.

BACKGROUND

On 06 June 2001, applicant filed international application number PCT/EP01/06412 which claimed priority to an earlier filed German application 10028543.0 filed on 08 June 2000.

On 06 December 2002 Applicant filed request for filing a national stage application under 35 USC 371, including the national stage application fee.

On 03 April 2003, the United States Patent and Trademark Office issued a Notification of Missing Requirements, requiring an Oath or Declaration in compliance with 37 CFR 1.497 (a) and (b).

On 14 January 2004, the United States Patent and Trademark Office issued a Notification of Abandonment for failure to comply with the Notification of Missing Requirements.

On 06 February 2004, applicants submitted a petition to revive the above application from abandonment and petition to permit filing under 37 CFR 1.47 (a), along with a newly executed declaration.

DISCUSSION

An application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a) must meet the following requirements:

> If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

Applicants provided a declaration by Dietrich Schneider, General Manager of Schneider und Partner, the assignee of the international application, stating that a copy of the application along with a Declaration, Power of Attorney, and Petition and Assignment has been sent to Emanuele Negro and Heiner Veelken on 20 April 2003 requesting signature. As stated in the declaration by Dietrich Schneider, "On February 04, 2003 I communicated with Emanuele Negro and Heiner Veelken and was informed, "that they would not sign".

The application and papers have been reviewed and have been found to be not in compliance with 37 CFR 1.47 (a). The declaration submitted 19 April 2004, is not in compliance with 37 CFR 1.497, the declaration does not list all inventors. The declaration fails to list the nonsigning inventors Emanuele Negro and Heiner Veelken.

As stated in MPEP 409.03 (d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

Applicants have failed to provide a copy of any of the communications between applicants and nonsigning inventor, secondly there is no specific time or date of the refusal, and thirdly no document of evidence of receipt of the completed copy of the application.

A petition to revive under 37 CRF 1.137 (b) must be accompanied by: (1) a proper response, unless it has been previously submitted; (2) the requisite petition fee as required by 37 CFR 1.17 (m); (3) a statement that the " entire delay in filing the required reply from the due date

for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137 (c).

On 15 January 2004, applicant filed the present petition to revive the national stage application under 37 CFR 1.137 (b). Filed with the present petition were, inter alia: (1) the requisite $1,330 Petition fee; and (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,".

In view of the dismissal of the petition under 37 CFR 1.47 (a), the required reply has not been submitted. In addition applicant is required to provide more information concerning the misunderstanding between the United States Firm and the foreign associates, as there appears to be an issue of whether the abandonment was unintentional.

CONCLUSION

The petition to permit filing under 37 CFR 1.47(a) is DISMISSED without prejudice.

The petition to revive the application under 37 CFR 1.137 (b) is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47 (a) and 1.137 (b)." No petition fee is due. Extensions of time are available under 37 CFR 1.136(a).

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

Michael Lebentritt
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
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Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
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12 OCT 2004

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Randall R. Bateman
4 Triad Center, Suite 825
P.O. Box 1319
Salt Lake City, Utah 84110

In re Application of :
BARTH et al. :
Application No.: 10/297,462 : DECISION ON PETITION
PCT No.: PCT/EP01/06412 :
Int. Filing Date: 06 June 2001 :
Priority Date: 08 June 2000 :
Attorney Docket No.: 2474.GLE.PT :
For: REFRIGERATION UNIT

This decision is in response to applicants' "Request to Reconsider Petition to Revive Unintentionally Abandoned Application" filed 07 September 2004, which is being treated as a Petition under 37 CFR 1.47(a) and 37 CFR 1.137(b).

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 07 September 2004 with the present renewed petition was executed by the named inventors, the previous non-signing inventors, Emanuele Negro and Heiner Veelken. The declaration filed 07 September 2004 is acceptable under 37 CFR 1.497. For the reasons above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** as MOOT.

Applicants' statement that the "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 an executed declaration and power of attorney 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. The petition 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.

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

24 SEP 2004

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Randall B. Bateman
4 Triad Center, Suite 825
Post Office Box 1319
Salt Lake City, Utah 84110

Dear Mr. Bateman:

This is in response to your request received 13 July 2004 inquiring about the status of U.S. patent application number 10/297,462. The USPTO records show that a decision dismissing applicant's petition filed 06 February 2004 was issued and mailed to applicant on 09 July 2004 and a response to that decision was received on 07 September 2004. Applicant will receive a decision in response to that communication in due course.

Sincerely,

Nguyên Ngoc Hô

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508

03 APR 2003

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Brinks Hofer Gilson & Lione
P O Box 10395
Chicago, IL 60610

In re Application of
SALENBIEN et al.
Serial No.: 10/297,463
PCT No.: PCT/US01/16996
Int. Filing Date: 24 May 2001
Priority Date: 24 May 2000
Attorney's Docket No.: 10970-150
For: BLOW MOLDING MACHINE HAVING FLEXIBLE CAVITATION

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

The petition to revive under 37 CFR 1.137(b) filed 06 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the"entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $100 has been paid. The required petition fee of $1280 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 including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors and $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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12 SEP 2003

Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

In re Application of :
Salenbien et al. :
US Application No.: 10/297,463 :
PCT Application No.: PCT/US01/16996 :
International Filing Date: 24 May 2001 : DECISION ON PETITION
Priority Date: 24 May 2000 : UNDER 37 CFR 1.47(a)
Attorney's Docket No.: 10970-150 :
For: BLOW MOLDING MACHINE HAVING :
FLEXIBLE CAVITATION :

This decision is in response to the "Petition to Proceed Where Inventors Refuse to Sign (37 CFR 1.47(a))" filed on 19 June 2003.

BACKGROUND

On 24 May 2001, Applicants filed international application PCT/US01/16996, claiming priority of an earlier U.S. provisional application filed on 24 May 2000. A Demand for International Preliminary Examination, in which the United States was elected, was filed on 18 December 2001, prior to 24 December 2001, the end of the 19-month period 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 25 November 2002, the international application became abandoned as to the United States for failure to pay the basic national fee on or before 25 November 2002 (Monday).

On 06 December 2002, a petition under 37 CFR 1.137(b) was filed along with a transmittal letter for entry into the national stage in the United States (Form PTO-1390), accompanied by the $100 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(4), but not an oath or declaration.

On 04 April 2003, the international application was revived as to the United States.

On 14 April 2003, a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" was mailed, stating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was missing, and requiring submission of a proper oath or declaration within the later of 2 months of the mailing date of the notification, or, 32 months of the priority date. The reply period was extendable under 37 CFR 1.136(a).

On 19 June 2003, the instant petition was filed along with 3 declarations (1 signed by 3 of the 8 named inventors; another signed by a 4th inventor; and the last signed by a 5th inventor), a request for a 1 month extension of time, and the extension-of-time fee. The petition asserts that the 3 non-signing inventors refused to join in the application, in essence requesting that the 5 available inventors be allowed to file this application on behalf of themselves and the 3 non-signing inventors.

DISCUSSION

A petition under 37 CFR 1.47(a) must include (1) the $130 petition fee required by 37 CFR 1.17(h); (2) a statement of facts showing that the non-signing inventor(s) refused to join in the application or cannot be reached after diligent effort; (3) the last known address of the non-signing inventor(s); and (4) an oath or declaration executed by each available inventor on behalf of his or her own behalf as well as the non-signing inventor(s).

The petition encloses the $130 petition fee (item (1)).

The petition indicates the last known address of each of the non-signing inventors in the exhibits (item (3)).

Declarations executed by the available inventors were filed on 19 June 2003 (item (4)).

As to item (2), according to the petition and the accompanying exhibits:

-At some time before 07 September 2001, 1 of the non-signing inventors, Peter J. Hatas, indicated his refusal to sign the application papers during a telephone inquiry from counsel;

-On 07 September 2001, counsel mailed the non-signing inventors, at the last known address of each of them, a copy of the international application, a declaration, and the assignment document;

-On 24 October 2001 and again on 08 May 2003, letters regarding the application papers were mailed to the non-signing inventors. The 08 May 2003 letters were confirmed to have been received by these inventors.

-As of 17 June 2003, when the instant petition was being prepared for filing, counsel did not hear from the 3 non-signing inventors.

The Office concludes that a *bona fide* attempt has been made, in vain, to secure the signatures of the 3 non-signing inventors on the application declaration. The requirement of item (2) above is also considered met.

CONCLUSION

In view of the above, the petition is **GRANTED.**

The Office notes that, with the instant grant of the §1.47(a) petition, the declarations filed on 19 June 2003 are in compliance with 37 CFR 1.497(a) and (b). Consequently, Applicants have met the requirements of 37 CFR 1.495 for acceptance into the national stage under 35 U.S.C. 371(c). The application has an international filing date of 24 May 2001, and a 35 U.S.C. 371 date of 19 June 2003, the day the declarations were filed.

As provided in 37 CFR 1.47(c), a notice of the filing of the instant application will be sent to each of the non-signing inventors at the last known address indicated in the petition.

A notice of the filing of the instant application under 37 CFR 1.47(a) will be published in the *Official Gazette.*

The application is being returned to DO/EO/US for processing in accordance with this decision, including the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

Boris Milef
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventors whose signatures are missing (Terry C. Potter; Peter J. Hatas; Liguo Zhao) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/US01/16996 and was filed on 24 May 2001 in the names of Leon G. Salenbien; Michelle M. Rising (later changed to Michelle M. Belin); Terry C. Potter; Peter J. Hatas; James Potter; Liguo Zhao; J. Scott Rosenbeck; and Robert Cooper for the invention entitled BLOW MOLDING MACHINE HAVING FLEXIBLE CAVITATION. The national stage application number is 10/297,463, and has a 35 U.S.C. 371 date of 19 June 2003.

#3

27 MAY 2003

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

In re Application of	:	DECISION ON
Syuki OH et al	:	
Application No.: 10/297,491	:	
PCT No.: PCT/JP00/09115	:	PETITION UNDER
Int. Filing Date: 21 December 2000	:	
Priority Date: 28 December 1998	:	37 CFR 1.137(b)
Attorney's Docket No.: 231574US2PCT	:	
For: LANGASITE SINGLE ... AND SURGE	:	
ACOUSTIC WAVE DEVICE	:	

This decision is in response to applicants' "Petition To Revive Under 37 CFR 1.137(b)," filed on 09 December 2002.

BACKGROUND

On 21 December 2000, this international application was filed, claiming an earliest priority date of 22 December 1999.

A Demand electing the United States was filed in this international application on 20 June 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 28 June 2002. The application became abandoned for failure to commence the national stage timely under 35 U.S.C. 371.

On 09 December 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

21 OCT 2003

#8

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

In re Application of	:	
WANG, Shouqi et al	:	
Application No.: 10/297,491	:	
PCT No.: PCT/JP01/09115	:	
Int. Filing Date: 21 December 2000	:	DECISION
Priority Date: 21 December 1999	:	
Attorney Docket No.: 231574US2PCT	:	
For: LANGASITE SINGLE...	:	
ACOUSTIC WAVE DEVICE	:	

This decision is in response to applicants' "DECLARATION OF SHOUQI WANG" filed on 11 August 2003 indicating that the executed declaration filed on 11 August 2003 contains the correct spelling of the first inventors' name WANG Shouqi.

DISCUSSION

On 17 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 submitted within two months from its 17 June 2003 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 11 August 2003, applicants submitted an executed declaration of the inventors. In the declaration section pertaining to the first named inventor, the name Shouqi WANG appears; this name did not appear in the international application. In addition, the declaration has been signed by "Shouqi WANG."

On 02 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) because the declaration was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

DISCUSSION

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under **37 CFR 1.182** together with an appropriate petition fee. Note MPEP 605.04(b).

The response asserts that the correct name of the first inventor is "Shouqi WANG" and not "SYUKI OH" as published in PCT application WO01/48276 and in the transmittal letter of 09 December 2002. Although applicant indicates that the published PCT application contained an error "due to an error of translation." It is unclear whether this is a result of a transliteration error. In this instance, both the given and family name are different from what was published in the PCT application. Accordingly, this may be more than a mere transliteration error and would require a submission of correction under 37 CFR 1.182 with the accompanied petition fee.

In addition, the second named joint inventor in the published PCT application UDA, Satoru does not correspond with the name that is in the declaration for the second joint inventor UDA, Satoshi.

CONCLUSION

For the reasons above, the application may not enter into national stage processing at this time.

The "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) mailed on 02 September 2003 is hereby **VACATED**.

A proper response must be filed within One (1) MONTH from the mail date of this decision or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended up to a maximum of five (5) months. Failure to timely file the proper response will result in Abandonment.

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

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

In re Application of	:	DECISION ON
WANG, Shouqi et al	:	
Application No.: 10/297,491	:	
PCT No.: PCT/JP01/09115	:	
Int. Filing Date: 21 December 2000	:	PETITION UNDER
Priority Date: 21 December 1999	:	
Attorney Docket No.: 231574US2PCT	:	
For: LANGASITE SINGLE...	:	
ACOUSTIC WAVE DEVICE	:	37 CFR 1.182

This decision is in response to applicants' "PETITION TO COMMISSIONER UNDER 37 CFR 1.182" filed originally on 17 October 2003 and subsequently faxed on 23 January 2004 indicating that the executed declaration filed on 11 August 2003 contains the correct spelling of the first inventors' name WANG Shouqi. The petition fee of $130.00 has been paid by check.

BACKGROUND

In a decision from this Office on 21 October 2003, the decision indicated that the application could not enter into national stage at that time since it was unclear if the current name was a result of a transliteration error because both the given and family name are different from what was published in the PCT application.

On 17 October 2003, applicants filed a petition under 37 CFR 1.182 indicating that the name "OH, Skuki" that appeared on the publication was incorrect since the correct name is "Shouqi WANG." The petition included an affidavit from Shouqi WANG describing that due to an error in translation his name was misspelled as "OH, Skuki.

On 23 January 2004, applicants' faxed a true copy of the petition and the attachment filed on October 17, 2003 including the date-stamped filing receipt.

DISCUSSION

37 CFR 1.181:

Petitioner's present petition is accompanied by a copy of the following documents, inter alia, filed purportedly with the PTO as indicated in the stamped postcard:

(1) Petition Under 1.182

(2) Declaration of Shouqi Wang

The postcard lists the above items and bears a USPTO date of stamp as 17 October 2003.

MPEP 503 provides:

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

Applicant's postcard is accepted as *prima facie* that the above papers were deposited with the U.S. Patent and Trademark Office on 17 October 2003.

DECISION

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

37 CFR 1.182:

The correct name of the first inventor is "Shouqi WANG" and not "Syuki OH" as published in PCT application WO01/48276 A1 (PCT/JP00/09115). The correct name, Shouqi WANG, and that he is a national of China as indicated in the PCT/IB/306 will be reflected in the US national stage processing.

Applicants' response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 17 June 2003.

In addition, the second named joint inventor in the published PCT application UDA, Satoru does not correspond with the name that is in the declaration for the second joint inventor UDA, Satoshi but this has been corrected by the International Bureau as evidenced by the form PCT/IB/306 and the correct name will be reflected in the US national stage processing.

CONCLUSION

The petition under 37 CFR §1.182 is **GRANTED**. The application will be granted a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of **11 August 2003.**

For the reasons above, the application may enter into national stage processing at this time. The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

Patent No. : 7,273,664 B2
Serial No. : 10/297,494
Inventor(s) : Semond et al.
Issued : September 25, 2007
Title : **PREPARATION METHOD OF A COATING OF GALLIUM NITRIDE**
Docket No. : **231097US0PCT**

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.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-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, which requires petition 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 B 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

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.

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

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

ecw

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

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Semond et al. :
Application No. 10/297,494 :
Filed: December 9, 2002 : DECISION ON PETITION
Patent No. 7,273,664 :
Issued: September 25, 2007 :
Attorney Docket No. 231097US0PCT :

This is a decision on the renewed petition under 37 CFR 1.183, filed November 12, 2008, requesting waiver of the requirements of 37 CFR 3.81, which was filed with the items required by 37 CFR 3.81 and is being addressed 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 renewed petition under 37 CFR 1.183 is **DISMISSED**.

The request under 37 CFR 3.81 is **GRANTED**.

In regard to the requested waiver, the original petition states as the explanation for the listing of the incorrect assignee's name on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee that "a clerical error occurred and we inadvertently listed PICOGIGA INTERNATIONAL SAS as the assignee." However, circumstances resulting from the failure to exercise due care is not, in any event, an extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977). Appropriately, the waiver was not granted for this error by Applicants and the communication of October 31, 2008 required the filing of a petition under 37 CFR 3.81 with required fees.

Since this renewed petition was accompanied by a request for certificate of correction and the required fees, it is being addressed as a request under 37 CFR 3.81(b) with a request for a certificate of correction under 37 CFR 1.323.

---

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

Petitioner states that the correct assignee's name is CENTRE NATIONAL DE LA RECHERCHE SCIENTIFIQUE and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that CENTRE NATIONAL DE LA RECHERCHE SCIENTIFIQUE is the assignee of record, which assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692. 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.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 053105

TIMOTHY N. TROP
TROP PRUNNER & HU
8554 KATY FREEWAY, SUITE 100
HOUSTON TX 77024

AUG 25 2005

In re Application of: LIZHONG HUANG	:	
Serial No.: 10/297,503	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: May 22, 2003	:	
Attorney Docket No.: **DQI.0006US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed December 30, 2004.

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

The request meets all the above stated requirements. The request was signed by Timothy N. Trop, on behalf of himself.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to DEQI International Property Law Corporation, 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: DEQI INTELLECTUAL PROPERTY
LAW CORPORATION
7/F., XUEYUAN INTERNATIONAL TOWER
NO. 1 ZHICHUN ROAD, HAIDIAN DISTRICT
BEIJING 100083 CHINA

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OFFICE OF PETITIONS

MARSHALL, GERSTEIN & BORUN LLP
Suite 6300
233 South Wacker Drive
Chicago, IL 60606-6357

In re Patent No. 6,924,705	:	
Issue Date: August 2, 2005	:	
Application No. 10/297,503	:	ON PETITION
Filed: May 22, 2003	:	
Attorney Docket No. DQI.0006US	:	

This is a decision on the petition under 37 CFR 1.182, filed July 31, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 305-8283.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax - 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

19 AUG 2003

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Lahive & Cockfield
28 State Street
Boston, MA 02109

In re Application of :
DAHL et al. :
U.S. Application No.: 10/297,509 :
PCT No.: PCT/DK01/00398 : DECISION
Int. Filing Date: 08 June 2001 :
Priority Date: 09 June 2000 :
Attorney's Docket No.: PVZ-010US :
For: PURIFIED PROENZYME OF DIPEPTIDYL PEPTIDEASE I (PRO-DPPI) :

This is a decision on applicants' "Request for Refund of Excess of Fees" filed on 03 January 2003.

BACKGROUND

On 06 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by the basic national fee; a copy of the international application; and a preliminary amendment.

On 03 January 2003, applicants filed "Request for Refund of Excess of Fees."

On 27 January 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). The notification set a two-month time limit in which to respond.

On 10 March 2003, applicants filed an executed declaration and power of attorney.

DISCUSSION

37 CFR 1.28(a) provides:

> A refund pursuant to §1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

In the present case, the 03 January 2003 request for a refund of a portion of the fees paid upon filing the present application based upon the subsequent establishment of small entity status was made within three-months of the payment of the large entity fees on 06 December 2002. Accordingly, petitioner is entitled to a refund of a portion of the large entity fees paid upon filing the present application.

CONCLUSION

The request for refund under 37 CFR 1.28(a) is **GRANTED**.

Deposit Account no. 12-0080 will be refunded 537.00.

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 **10 March 2003**.

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

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Alexandria, VA 22313-1450
www.uspto.gov

William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York NY 10151

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OFFICE OF PETITIONS

In re Application of :
Ishizaka, et al. :
Application No. 10/297,520 : ON PETITION
Filed: December 6, 2006 :
Attorney Docket No. 450100-03888 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed - May 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 4, 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 January 5, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/732,768.

Regarding the extension of time request submitted with the present petition: An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020.00 extension of time fee submitted with the petition on May 8, 2007 was submitted subsequent to the maximum extendable period for reply, it cannot be accepted and will be refunded to deposit account no. 50-0320.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

09 APR 2003

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WASHINGTON, D.C. 20231
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Robert Berliner
FULLBRIGHT & JAWORSKI
865 South Figueroa
Twenty-Ninth Floor
Los Angeles, CA 90017-2571

In re Application of: JONES, Thomas, S., et al.	:	
U.S. Application No.: 10/297,524	:	DECISION ON PETITION TO
PCT No.: PCT/US01/16873	:	REVIVE ABANDONED
International Filing Date: 25 May 2001	:	APPLICATION UNDER 37
Priority Date: 26 May 2000	:	CFR 1.137(b)
Attorney's Docket No.: LA-7171-104	:	
For: SCINTILLATOR DETECTOR AND CAMERA SYSTEM AND METHOD FOR MEASURING EMISSION UNIFORMITY AND FOR CALIBRATION OF RADIOACTIVE SOURCES	:	

The petition to revive under 37 CFR 1.137(b) filed 05 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3). Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied.[1] Therefore, the request to revive the application is granted as to the national stage in the United States.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for late-filing of the declaration.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

[1] Pursuant to the authorization to charge any fees required contained in the 05 December 2002 submission, the proper basic national fee, $370, will be charged to Deposit Account No. 50-0337 (the $355 fee specified by applicant in the submission is not the proper fee here)

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MAY 2 7 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Timothy N Trop
Trop Pruner & Hu
Suite 100
8554 Katy Freeway
Houston TX 77024

In re Application of
Wei Tang
Application No. 10/297,530
Filed: December 05, 2002
For: **METHOD FOR GENERATION OF TRAINING SEQUENCE IN CHANNEL ESTIMATION**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as Attorney(s) of record and change of address filed on December 20, 2004.

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 associated with the request to withdraw are withdrawn.

All future communications from the Office will be directed to the below-listed address 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:

DEQI Intellectual Property Law Corporation
7/F., Xueyuan International Tower, No. 1 Zhichun Road
Haidian District, Beijing, China 100083

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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.
10/297,530	08/08/2003	Wei Tang	DQI.0005US	6559

7590 07/15/2009

MARSHALL, GERSTEIN & BORUN LLP
Suite 6300
233 South Wacker Drive
Chicago, IL 60606-6357

EXAMINER	
LEE, BETTY E	

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
07/15/2009	PAPER

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

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

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Paul B. Stephens
MARSHALL, GERSTEIN & BORUN LLP
Suite 6300
233 South Wacker Drive
Chicago, IL 60606-6357

In re U.S. Patent of:	)	
Tang et al.	)	
Application No. 10/297,530	)	**DECISION ON SUBMISSION OF**
Filed: August 8, 2003	)	**PRIOR ART FILED NOV. 11, 2007**
U.S. Patent No. 7,376,115	)	
Issued: May 20, 2008		

The "Submission of Prior Art under 37 C.F.R. § 1.501," filed on November 16, 2007, has been treated as an information disclosure statement (IDS) filed under 37 C.F.R. § 1.97 because it was submitted before the patent issued on May 20, 2008.

The information included in the IDS filed Nov. 11, 2007 will not be considered because the IDS was not accompanied by a required certification under in 37 C.F.R. § 1.97(e) and by the requisite fee under 37 C.F.R. § 1.17(p).

The IDS has been placed in the application file, but the information referred to therein has not been considered.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3126.

Chau T. Nguyen
Workgroup Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

18 AUG 2004

#6

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

In re Application of	:	DECISION ON
HYING et al	:	
Application No.: 10/297,581	:	
PCT No.: PCT/EP01/07493	:	
Int. Filing Date: 29 June 2001	:	PETITION UNDER
Priority Date: 14 July 2000	:	
Attorney Docket No.: 230879US2XPCT	:	
For: PROCESS AND APPRATUS MEMBRANE	:	
CLEANING	:	37 CFR 1.181

This application is before the PCT Legal Office for consideration of matters under 35 USC 371. The decision is in response to the declaration filed on 23 April 2003, which is being treated as a petition under 37 CFR 1.181 requesting the removal of the holding of abandonment because the declaration was timely filed.

BACKGROUND

On 12 December 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). Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed Declaration or Oath was not provided with the transmittal letter at such time.

On 27 March 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 PUT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 23 April 2003, applicants submitted a "Response to Notice of Missing Requirements Under 35 U.S.C. 371" which included an executed declaration.

On 12 January 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that applicant had failed to respond to the "NOTIFICATION OF MISSING REQUIREMENTS (PCT/DO/EO/905), mailed 03/27/2003 within the time period set therein; Accordingly the application was abandoned.

DISCUSSION

A review of the file shows that the response to the notice of missing requirements, the executed declaration, was filed timely. Accordingly, the date of receipt for the Declaration is 23 April 2003.

In view of the above, "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) was erroneously mailed on 12 January 2004.

DECISION

The NOTIFICATION OF ABANDONMENT, mailed 12 January 2004 has been VACATED.

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 of this application as **23 April 2003**.

Rafael Bacares
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Leonard Smith
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WK

Mailed: 8/19/05

In re application of	:	
Klaus Tank	:	DECISION ON
Serial No. 10/297,590	:	PETITION
Filed: June 3, 2003	:	
For: COMPOSITE DIAMOND COMPACTS	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed May 19, 2005, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the Application Data Sheet filed December 13, 2002 be expunged and that the documents are appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/297,590

The image of the document will be removed from the Official file.

Jacqueline M. Stone

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

Corwin P. Umbach
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
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11 JUN 2003

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In re Application of :
YAMAZAKI, Hirotaka *et al* :
Application No.: 10/297,595 :
PCT No.: PCT/JP01/05119 :
Int. Filing Date: 15 June 2001 : **DECISION**
Priority Date: 15 June 2000 :
Attorney Docket No.: 23167US0PCT :
For: LUBRICATING OIL FOR :
REFRIGERATORS AND HYDRAULIC :
OIL FLUID . . . :

This is a decision on the declaration filed 28 April 2003 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 10 April 2003, 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) was mailed indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit was set for response.

On 28 April 2003, applicants filed the instant response which was accompanied by, *inter alia*, a declaration signed by two of the three listed co-inventors and the legal representative of a deceased co-inventor.

DISCUSSION

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.

Applicants have furnished a declaration signed by Naoki Tazaki as the legal representative of deceased co-inventor, Toshinori Tazaki. 37 CFR 1.497(a)(3) requires that the citizenship of each inventor (including any deceased inventor) must be listed on the declaration. 37 CFR 1.497(b)(2) also requires that the citizenship, residence, and mailing address of the legal representative be recorded on the declaration.

A review of the declaration submitted shows that citizenship, residence and mailing address information are listed in the deceased co-inventors box next to the signature of the legal representative. However, it is not clear if this information is for the legal representative or the deceased co-inventor. Regardless, this information is required for both and must be clearly identified on the declaration.

Accordingly, the declaration does not comply with 37 CFR 1.497.

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136.

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

James Thomson

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23 SEP 2003

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#7

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In re Application of :
YAMAZAKI, Hirotaka *et al* :
Application No.: 10/297,595 :
PCT No.: PCT/JP01/05119 :
Int. Filing Date: 15 June 2001 : **DECISION**
Priority Date: 15 June 2000 :
Attorney Docket No.: 23167US0PCT :
For: LUBRICATING OIL FOR REFRIGERATORS AND HYDRAULIC OIL FLUID . . . :

This is a decision on the "Response to Decision Under 37 C.F.R. § 1.42" filed 11 September 2003.

BACKGROUND

On 11 June 2003, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. The declaration was regarded as not to contain all of the information required by 37 CFR 1.497(a) and (b). Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 11 September 2003, applicants filed the instant response which was accompanied by, *inter alia*, a one-month extension of time request and a $110.00 fee and a Supplemental Application Data Sheet.

DISCUSSION

Applicants submitted a declaration 28 April 2003 signed by Naoki Tazaki as the legal representative of deceased co-inventor, Toshinori Tazaki. It was noted that it was not clear whether the citizenship, residence and mailing address information listed in the deceased co-inventors box next to the signature of the legal representative was for the deceased co-inventor or the legal representative. Thus, the declaration was deemed not to comply with 37 CFR 1.497.

In the instant response, counsel argues that the declaration submitted 28 April 2003 complies with 37 CFR 1.497(a) and (b). Counsel maintains that the declaration bears the address and citizenship that are held in common by the legal representative, Naoki Tazaki. Moreover, counsel argues that further clarification is provided in the Supplemental Application Data Sheet filed concurrently herewith. A review of the

Supplemental Application Data Sheet reveals that it contains the citizenship, residence and mailing address of the deceased inventor and the legal representative.

Counsel's arguments have been carefully considered and dismissed without prejudice. The relevant statutes and rule are:

35 U.S.C. 117 *Death or incapacity of inventor.*

Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

35 U.S.C. 115. *Oath of applicant*, states, in part:

The applicant shall make oath that he believes himself to be the original and first inventor of the process, machine, manufacture, or composition of matter, or improvement thereof, for which he solicits a patent; and shall state of what country he is a citizen. . . . Such oath is valid if it complies with the laws of the state or country where made.

37 CFR 1.497, *Oath or declaration under 35 U.S.C. 371(c)(4)*, states, in part:

(a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § 1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26 ter.1, he or she must file an oath or declaration that:
(1) Is executed in accordance with either § § 1.66 or 1.68;
(2) Identifies the specification to which it is directed;
(3) Identifies each inventor and the country of citizenship of each inventor; and
(4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.
(b)
(1) The oath or declaration must be made by all of the actual inventors except as provided for in § § 1.42, 1.43 or 1.47.
(2) If the person making the oath or declaration or any supplemental 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.

A review of the declaration filed 28 April 2003 shows that it does not meet the citizenship requirement for both the deceased co-inventor and legal representative. Using a Supplemental Application Data Sheet to satisfy this statutory requirement is not allowed. This information must be provided on the declaration itself.

In addition, the fact that the legal representative and deceased inventor share common personal information does not nullify the requirement that this information must be provided separately for each on the declaration as required by 37 CFR 1.497.

CONCLUSION

For the reasons listed above, applicants' renewed petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136.

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.

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25 MAR 2004

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In re Application of :
YAMAZAKI, Hirotaka *et al* :
Application No.: 10/297,595 :
PCT No.: PCT/JP01/05119 :
Int. Filing Date: 15 June 2001 : **DECISION**
Priority Date: 15 June 2000 :
Attorney Docket No.: 23167US0PCT :
For: LUBRICATING OIL FOR REFRIGERATORS AND HYDRAULIC OIL FLUID . . . :

This decision is in response to the papers filed on 24 November 2003 which are treated as a renewed submission under 37 CFR 1.42.

BACKGROUND

On 23 September 2003, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed because the declaration did not contain the required information pursuant to 37 CFR 1.497 for the deceased inventor and the legal representative. Applicants were given two months to respond.

On 24 November 2003, applicants filed a "Response to Decision Under 37 C.F.R. § 1.42" which was accompanied by, *inter alia*, an executed supplemental declaration.

DISCUSSION

In the renewed petition, applicants submitted a declaration listing the names, residences, citizenship and mailing addresses of all three joint inventors including the deceased inventor, Toshinori Tazaki. The name, residence, citizenship and mailing address of Naoki Tazaki as the legal representative of the deceased co-inventor was also recorded on the declaration.

This declaration complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

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

371(c). The application has an international filing date of 15 June 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **24 November 2003**.

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

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AUG 2 6 2009

OFFICE OF PETITIONS

In re Application of :
Filip ACX, et al. :
Application No. 10/297,617 : DECISION ON PETITION
Filed: December 16, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **016782-0271** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 13, 2006. A request for continued examination under 37 CFR 1.114 was filed in this application on February 20, 2008, after appeal to the Board of Patent Appeals and Interferences. Therefore, the appeal has been withdrawn pursuant to 37 CFR 1.114. The request, however, lacked the submission required by 37 CFR 1.114. Therefore, the request has been treated as an improper RCE. Note that the filing of only an IDS is not considered to be a *bona fide* attempt to provide a complete reply to the last outstanding Office action (see MPEP 706.07(h)(X)(B). The filing of only an IDS does not constitute a proper submission (see MPEP 706.07(h)(II) for submission requirements. The proceedings as to the rejected claims are considered terminated and no claim is allowed. Accordingly, the date of abandonment of this application is March 13, 2007. (See MPEP 1215.01)

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3723 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Brian W. Brown
Petitions Examiner
Office of Petitions

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Peter I. Bernstein
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City NY 11530

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DEC 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Geroni et al.	:	DECISION ON PETITION
Application No. 10/297,620	:	UNDER 37 CFR 1.137(b)
Filed: December 16, 2002	:	
Attorney Docket No. 101615-00017	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed January 9, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on April 10, 2004. A Notice of Abandonment was mailed on September 22, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.[1]

The petition is **granted.**

This matter is being referred to Technology Center Art Unit 1654.

[1] The above-identified application has been abandoned for an extended period of time. The USPTO is rely on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

24 SEP 2003

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The Firm Of Karl F. Ross
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Riverdale (Bronx), NY 10471

In re Application of	:	
BELFORTE, Piero, et al.	:	
U.S. Application No.: 10/297,634	:	DECISION
PCT No.: PCT/EP01/06176	:	
International Filing Date: 31 May 2001	:	
Priority Date: 05 June 2000	:	
Attorney's Docket No.: 22399	:	
For: PROCESS FOR THE ELECTROMAGNETIC MODELLING OF ELECTRONIC COMPONENTS AND SYSTEMS	:	

This decision is issued in response to applicants' submission filed 23 June 2003. No petition fee is required.

BACKGROUND

On 31 May 2001, applicants filed international application PCT/EP01/06176 which claimed a priority date of 05 June 2000 and which designated the United States. On 13 December 2001, a copy of the international application was communicated to the USPTO by the International Bureau (IB).

On 21 December 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 05 December 2002.

On 06 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 24 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a $130 surcharge was required.

On 23 June 2003, applicants filed a response that which contained the $130 surcharge payment, separate declarations executed by two of the three inventors, and a statement referring to the purported refusal of the third inventor, Piero BELFORTE, to execute the application.

DISCUSSION

A. Failure To Timely Pay Basic National Fee

A review of the application file reveals that applicants' payment of the basic national fee was not filed until 06 December 2002, one day after the expiration of the thirty month deadline (the papers including payment of the national fee were submitted in "Express Mail" envelope EV018432681US; the "date in" on this "Express Mail" package is 06 December 2002). Accordingly, based on applicants' failure to file the basic national fee within thirty months of the priority date, this application became abandoned at midnight on 05 December 2002.

The Notification Of Missing Requirements mailed 24 April 2003, issued as it was in an abandoned application, was therefore mailed in error. The Notification Of Missing Requirements is therefore appropriately vacated.

B. Declarations And Statement Filed 23 June 2003

Notwithstanding the above, a cursory review of the materials submitted on 23 June 2003 reveals that this submission is not acceptable under 37 CFR 1.497 and 37 CFR 1.47(a). Applicants should note that any subsequent submission seeking acceptance of the application without the signature of inventor Piero BELFORTE would need to be accompanied by a grantable petition under 37 CFR 1.47(a). A grantable petition under 37 CFR 1.47(a) must include: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort. Applicants' 23 June 2003 submission did not satisfy any of these requirements: no petition fee was submitted; no express statement of the last known address of the Mr. BELFORTE was provided; the declarations executed by the remaining inventors were defective (i.e., the declarations do not each identify all the inventors herein, and they do not properly identify the specification to which they are directed); and the evidence of the purported refusal was not sufficient under MPEP § 409.03(d) (which requires that the nonsigning invetor be presented with a copy of the complete application papers and "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made").

Accordingly, any subsequent petition filed by applicants seeking to revive this application should be accompanied by a fully executed declaration in compliance with 37 CFR 1.497 or all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

Based on applicant's failure to file the basic national fee within thirty months of the priority date, this application is **ABANDONED** as of midnight on 05 December 2002.

The Notification Of Missing Requirements mailed 24 April 2003 is hereby **VACATED**.

As discussed above, the 23 June 2003 submission by applicants did not include an acceptable declaration under 37 CFR 1.497 or the requirements for a grantable petition under 37 CFR 1.47(a). Thus, in order to expedite any subsequent processing of this application, any submission made by applicants seeking to revive this application should be accompanied by an acceptable declaration under 37 CFR 1.497 (or the requirements for a grantable petition under 37 CFR 1.47(a)).

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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08 APR 2004

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In re Application of :
BELFORTE, Piero, et al. :
U.S. Application No.: 10/297,634 : DECISION ON PETITION
PCT No.: PCT/EP01/06176 :
International Filing Date: 31 May 2001 :
Priority Date: 05 June 2000 :
Attorney's Docket No.: 22399 :
For: PROCESS FOR THE ELECTROMAGNETIC :
MODELLING OF ELECTRONIC :
COMPONENTS AND SYSTEMS :

This decision is issued in response to applicants' petition filed 09 December 2003. Applicant has paid the required petition fee.

BACKGROUND

The procedural background for this application is set forth in the decision mailed by this Office on 24 September 2003. In that decision, applicants were informed that the present application was abandoned for failure to timely file the basic national fee (the deadline for filing the fee was 05 December 2002; the submission including the payment of the basic national fee was accorded a filing date of 06 December 2002). The decision also noted that the materials submitted by applicant with respect to the purported refusal of applicant Piero BELFORTE to sign the application papers were insufficient under 37 CFR 1.47(a).

On 01 October 2003, pursuant to the 24 September 2003 decision, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909).

On 09 December 2003, applicants filed the "Petition To Revive Abandoned Application On The Grounds Of Unavoidable Delay Under 37 CFR 1.137(a) Or In The Alternative On The Grounds Of Unintentional Delay Under 37 CFR 1.137(b)." This submission is considered herein as a petition under 37 CFR 1.10(d) to correct the "date in" on the original application materials from 06 December 2002 to 05 December 2002, thereby making the payment of the basic national fee timely. In addition, the 09 December 2003 filing includes a petition under 37 CFR 1.47(a), also considered herein.

DISCUSSION

A. Petition Under 37 CFR 1.10(d)

The original "Express Mail" mailing label No. "EV018432681US" is located in the application file and bears the entry 06 December 2000 in the "Date-In" box on the label.

37 CFR 1.10(d) provides as follows:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

Petitioner has satisfied item (1) above as the petition is considered promptly filed. Item (2) above is satisfied since the number of the "Express Mail" mailing label (EV018432681US) was placed on the transmittal letter prior to the original mailing by "Express Mail".

With regard to item (3), applicants have submitted a statement from Arlene Bernstein, an employee of above-named counsel, with attached materials. Ms. Bernstein states that she presented the "Express Mail" envelope containing the present application materials to a USPS employee on 05 December 2002 at approximately 4:00 p.m. on 05 December 2002 (a return

receipt dated 05 December 2002 is attached). Ms. Bernstein also states that it is the standard procedure at counsel's firm for the USPS to make this daily pick-up, and that she maintains a daily log showing all outgoing USPS "Express Mail" (a copy of the 05 December 2002 log is attached, which identifies the present "Express Mail" label number and lists the docket number of the present application). This statement, and the attachments thereto (and specifically the USPS return receipt dated 05 December 2002), satisfy the requirements of item (3).

Applicant has satisfied all the requirements for a grantable petition. The national stage application materials, including the payment of the basic national fee, will be accorded a filing date of 05 December 2002, the date on which the materials were deposited with the USPS as "Express Mail." This filing date is within thirty months of the priority date. Accordingly, the Notification Of Abandonment mailed 01 October 2003, based as it was on applicants' purported failure to file the basic national fee within thirty months of the priority date, is appropriately withdrawn.

B. Petition Under 37 CFR 1.47(a)

The requirements for a grantable petition under 37 CFR 1.47(a) were set forth in the decision mailed by this Office on 24 September 2003. The present submission was accompanied by the required petition fee, and it sets forth the last known address of the nonsigning inventor. Accordingly, items (1) and (2) are satisfied.

With respect to item (3), the petition states that the petition is accompanied by a declaration identifying all three inventors and "signed by both Giovanni Ghigo and Flavio Maggioni who are applying for a patent in their own behalf as well as in behalf of Piero Belforte." However, the declaration attached to the petition, while identifying all three inventors, is not executed by any of the inventors. The declaration therefore cannot be accepted in satisfaction of item (3) of a grantable petition.

With respect to item (4), applicants have provided a statement from Laura Ribero, discussing Ms. Ribero's purported mailing of the application materials to the nonsigning inventor, and the nonsigning inventor's purported communication with Ms. Ribero regarding his refusal to sign the application papers. However, as with the inventor's declaration, Ms. Ribero's statement is unsigned and therefore cannot be accepted as evidence of the statements contained therein. In addition, the statement is not accompanied by any materials supporting the statements therein. For example, the statement refers to a letter sent to the nonsigning inventor with the application materials, but a copy of the letter has not been provided. In addition, a copy of the receipt for such letter, which the nonsigning inventor purportedly signed, has not been provided. Item (4) therefore has not been satisfied.

Applicants have not satisfied all the requirements for a grantable petition. Accordingly, acceptance of the application under 37 CFR 1.47(a) is therefore inappropriate on the present record.

CONCLUSION

Applicants' petition under 37 CFR 1.10(d) is **GRANTED**. The materials initiating this national stage application, including the payment of the basic national fee, are treated as having been filed on 05 December 2002, prior to the expiration of thirty months from the priority date.

The Notification Of Abandonment mailed 01 October 2003, based as it was on applicants' purported failure to timely pay the basic national fee, is hereby appropriately **VACATED**.

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

Any request for reconsideration of the decision on the petition under 37 CFR 1.47(a) must be submitted within **TWO (2) MONTHS** of the mail date of the present decision. Any such submission must include the materials required for a grantable petition, as discussed above. Failure to file a timely and proper response will result in abandonment of the application. Extensions are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter 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
PCT Legal Office
Telephone: (703) 308-6155
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29 JUN 2004

#18

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The Firm Of Karl F. Ross
5676 Riverdale Avenue, Box 900
Riverdale (Bronx), NY 10471

In re Application of: BELFORTE, et al.
U.S. Application No.: 10/297,634
PCT No.: PCT/EP01/06176
International Filing Date: 31 May 2001
Priority Date: 05 June 2000
Attorney's Docket No.: 22399
For: PROCESS FOR THE ELECTROMAGNETIC MODELLING OF ELECTRONIC COMPONENTS AND SYSTEMS

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

In a decision mailed by this Office on 08 April 2004, appliants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted: (1) a declaration executed on behalf of the nonsigning inventor by the remaining inventors; and (2) adequate evidence that the nonsigning inventor has been presented with a copy of the complete application and refused to sign.

On 16 April 2004, petitioners filed a request for reconsideration of the decision, treated herein as a renewed petition. The petition was accompanied by a declaration signed by two of the three inventors and containing an unsigned signature block for the nonsigning inventor Piero BELFORTE. This declaration is accepted as having been executed by the signing inventors for themselves and on behalf of the nonsigning inventor. This satisfies one of the two outstanding requirements for a grantable petition.

With respect to the remaining requirement, applicants have included a signed statement from Laura Ribiero, with exhibits, providing a firsthand statement confirming that a copy of the complete application was delivered to the nonsigning inventor and that he has refused to execute the application. This statement satisfies the remaining requirement for a grantable petition.

Applicant has now satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

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

The application is accepted without the signature of nonsigning inventor Pieor BELFORTE.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the nonsigning inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The 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 16 April 2004.

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22 MAY 2003

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Incyte Genomics
3160 Porter Drive
Palo Alto CA 94304

In re Application of :
LAL et al. :
Application No.: 10/297,639 :
PCT No.: PCT/US01/18476 : DECISION ON PETITION
Int. Filing Date: 06 June 2001 :
Priority Date: 06 June 2000 :
Attorney Docket No.: PF-0780 USN :
For: EXTRACELLULAR MESSENGERS :

This is a decision on applicants' "COMMUNICATION RE INVENTOR NAME CHANGE" filed 06 December 2002.

BACKGROUND

On 06 June 2001, applicant filed international application PCT/US01/18476, which claimed a priority date of 06 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 December 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 January 2002, 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 06 December 2002.

On 06 December 2002, applicants filed, *inter alia*, the Basic National Fee and the instant "COMMUNICATION RE INVENTOR NAME CHANGE".

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

With regard to item (1), the $130 petition fee has been charged to Deposit Account 09-0108.

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With regard to item (2), the "COMMUNICATION RE INVENTOR NAME CHANGE" was accompanied by an affidavit of Narinda K. Chawla signed with both names and setting forth the procedure whereby the change of name was effected. The affidavit by Narinda K. Chawla submitted 06 December 2002 is accepted.

CONCLUSION

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the earliest priority date.

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

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ARLINGTON VA 22203-1808

In re Application of :
Bartholomeusz et al : Decision on Petition
Serial No.: 10/297,664 :
Filed : 12 May 2003 :
Attorney Docket No.: 2551-84 :

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 10 August 2006 requesting review of a lack of unity determination.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/AU01/00690 and as such, is eligible for unity of invention practice.

In a written lack of unity determination mailed 22 December 2005, the examiner divided the 11 claims into 6 groups and then requested that applicants select one mutation or one combination of mutations if any of Group I, II, III or IV were elected. The examiner supported this determination in view of the prior art reference Aye which teaches the shared technical feature, a HBV polymerase mutation for anti-viral therapy.

On 26 January 2006, applicants elected Group I, claims 1-4 and species S548G mutant with traverse, stating that the examiner has not shown that the species are patentably distinct, for example, by providing a reference to a species.

In the first action of the merits mailed 10 February 2006, the examiner considered the traversal and made the unity of invention determination FINAL. The Office action appears to then contain a typographical error in stating that "Applicant's election of the species S548G mutant of claim **10** for examination."

This should have been written as: "Applicants' election of the species S548G mutant of claim **3** for examination." Claims 5-11 were withdrawn from consideration as being directed to non-elected inventions. Claims 1-4 were examined.

Claim 1 was rejected under 35 USC 112, 2nd for indefiniteness.
Claims 1-4 were rejected under 35 USC 112, 1st, for lack of an adequate written description.
Claims 1-4 were rejected under 35 USC 102(b) as being anticipated by Locarinini and Gunther.
Claims 1-4 were rejected under 35 USC 103(a) as being unpatentable over Locarinini.

The Office action also stated:

> Applicant has elected S548G for examination. Since no prior art has been found when searching for the elected species a HBV variant carrying a S548G mutation in the DNA polymerase, the Examiner has expanded the prior art search to additional species F524F/L and I533I/V.

The Office action then concluded with:

> The HBV variant having a mutation in its DNA polymerase gene that results in S548G substitution in its DNA polymerase was indicated as free of the prior art.

A response to the Office action was filed on 10 August 2006 along with this petition.

DISCUSSION

Applicants' petition filed 10 August 2006 has been considered carefully. The petition argues that the mutants of claim 3 are structurally and functionally HBV variants and that they all contain a mutation in region of the HBV polymerase from amino acid 471-599 which is not in the YMDD motif of the C domain alone.

Amended claim 3, reproduced below, recites the sequences in the alternative:

> 3. (Currently Amended) The HBV variant of Claim 1 [[or 2]] wherein the variant comprises a mutation in the HBV DNA polymerase selected from one or more of Q471K, Q471N, Y472Q, T474A, L478L/M, N485H, Y487Y/STOP, V/G/E488L, L493L/W, F524F/L, I533I/V, V537I, S548G, [[S548S/C,]] N/S/H584T, N/S/H584A, H584S/I, R588R/S and I599A.

When inventions, albeit it species encompassed by a genus or independent or distinct inventions, are recited in the alternative of a claim (Markush-type claim) the examination practice set forth in 803.02 applies.

The search and examination of alternatives in a Markush-type will be limited to the elected species and the provisional election of species requirement will take the effect of a restriction requirement when the elected species are not allowable. In this application, the examiner has indicated that the elected species is free of the prior art. The examiner then went on to extend the search to the additional species F524F/L and I533I/V. The examiner has applied prior art to the additional species in terms of both novelty and anticipation. Thus it was correct for the examiner to limit the search and examination to the subsequent species in view of the various rejections which evidence that the subsequent species is not allowable.

PCT Rule 13.2 states that inventions have unity when they share a technical feature that makes a contribution over the prior art. The outstanding rejections on claims 1-4 demonstrate that the shared technical feature does not make a contribution over the prior art.

Applicants claim set also includes claim 1, which encompasses the Markush alternatives of claim 3 using true genus language. Amended claim 1, reproduced below, is a linking claim that does not recite the sequences in the alternative:

> 1. (Currently Amended) An isolated HBV variant comprising at least one mutation selected from the group consisting of a mutation in an overlapping open reading frame in its genome wherein said mutation is in a region ~~defined by one or more of domains F and A through E of~~ in the HBV DNA polymerase from amino acids 471-599 provided that it is not in the YMDD motif of the C domain alone; [[and/or]] and a mutation in the overlapping region corresponding to amino acids 67-226 of HBV surface antigen, and wherein said variants are selected from the group consisting of variants which are famciclovir resistant in bone marrow transplant patients, and variants which are famciclovir and HBIG resistant in patients ~~exhibits one or both of decreased sensitivity to a nucleotide analogue and/or decreased interactivity to immunological reagents specific to HBV surface antigens~~.

Claim 1 is a genus claim that links the elected and non-elected species of claim 3. See MPEP 809 and 821.04(a) for examination practice for linking claims. The various rejections pending over claim 1 provide evidence that the linking claim is not in condition for allowance. In brief, should the linking claim be amended such that it is in condition for allowance, the restriction requirement between the linked inventions would be withdrawn and the claims directed to the linked inventions examined fully on the merits. If applicants were to add a limitation directed to the allowable species S548G to the HBV variant of claim 1, then any combination of mutations

which require this allowable species may be considered for rejoinder under 821.04(a). At this point in time, however, in view of the various outstanding rejections on claim 1, the examiner is not bound to follow linking claim practice set forth in 809 and 821.04(a).

Accordingly, the examination practice set forth in the first Office action on the merits is correct for the type of restriction (unity of invention), election, and claims under examination.

DECISION

Accordingly, the petition filed under 37 CFR 1.181 is **GRANTED-IN-PART** solely to the extent that the record has been clarified in terms of the examination practice afforded to the Markush and linking claim.

Should an allowable linking claim be presented, examination practice for the elected invention will follow linking claim practice in 809 and 821.04. Should the elected species and subsequent species be determined allowable and recited in the alternative of a Markush-type claim, the examiner will continue to follow examination practice in 803.02.

The lack of unity of invention determination has NOT been withdrawn. No groups have been rejoined. The application will be forwarded to the examiner to consider the response filed 10 August 2006.

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

John LeGuyader
Director, Technology Center 1600

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Abdesselem, et al. :
Application No. 10/297,680 : ON PETITION
Filed: December 6, 2002 :
Attorney Docket No. CE5004OP :
For: TIME SYNCHRONISATION FOR MOBILE SYSTEMS

This is a decision on the petition, filed July 2, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the November 8, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on February 9, 2007.

Applicants have submitted an amendment in reply to the November 8, 2006 non-final Office action, a proper statement of the unintentional nature of the delay in responding to the November 8, 2006 non-final Office action, and the $1,500.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2619 for consideration of the amendment filed on July 2, 2007.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SEP 18 2008

In re Application of	:	
Abdesselem et al.	:	
Application No. 10/297,680	:	ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. CE5004OP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 3, 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 an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 2619 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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RESTON, VA 20195

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OFFICE OF PETITIONS

In re Application of :
Narciso de Antoni Migliorati et al :
Application No. 10/297,713 : NOTICE OF WITHDRAWAL
Filed: September 4, 2003 : FROM ISSUE
Attorney Docket No. 83992-000001/US :

The purpose of this communication is to inform you that the above-identified application, which has not received a patent number or an issue date, is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit consideration of an outstanding petition under 37 CFR 1.47(a) filed on September 4, 2003. This withdrawal was requested by the Director of the Office of Petitions.

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

This matter will be retained in the Office of Petitions for consideration of the petition under 37 CFR 1.47(a). Inquiries concerning this communication may be directed to the undersigned at (571) 272-3218. Inquiries concerning the petition under 37 CFR 1.47(a) may be directed to Cynthia Kratz at (571) 272-3286.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

08 MAY 2006

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of MIGLIORATI et al.	:
Application No.: 10/297,713	: DECISION ON PETITION
PCT No.: PCT/IT02/00120	:
Int. Filing: 28 February 2002	: UNDER 37 CFR 1.47(a)
Priority Date: 28 February 2001	:
Attorney Docket No.: 83992-000001US	:
For: CONTAINER FILLING MACHINE	:

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 04 September 2003, and refiled on 11 October 2005, to accept the application without the signature of joint inventor, Narciso De Antoni Migliorati.

BACKGROUND

On 09 December 2002, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 04 June 2003, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) was required.

On 04 September 2003, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor . The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor Narciso De Antoni Migliorati, alleging that Mr. Migliorati refuses to sign the application.

On 17 September 2003, a Notification of Acceptance (FORM PCT/DO/EO/903) was mailed incorrectly indicating that the requirements of 35 U.S.C. 371(c) had been met and according a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 04 September 2003.

DISCUSSION

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

The petition included the requisite petition fee, satisfying Item (1). With regard to item (4), the declaration executed by the available joint inventor on his behalf and on behalf of the non-signing inventor was submitted and satisfies the requirements of 37 CFR 1.47(a).

Item (3) is not satisfied because the last known address of non-signing inventor, Narciso De Antoni Migliorati, was not provided.

With respect to Item (2) above, the petition indicates that the nonsigning inventor was invited verbally, via email and with a registered letter to sign a Power of Attorney but he refused to sign. It is clear that the nonsigning inventor was not provided a complete copy of the application papers at his last known address. A copy of a communication dated 13 February 2002 and letter dated 19 February 2002 sent to the nonsigning inventor were attached to the statement; however, English translations of the communications were not provided and are required to demonstrate that a complete copy of the application was sent to the nonsigning inventor.

Therefore, there is no evidence at this time that a complete copy of the application papers, including *specification, claims and drawings* and declaration, were provided to Mr. Migliorati. What is required is that Mr. Migliorati be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application. Details of the nonsigning inventor's refusal to sign must also be provided. A statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made is necessary before it can be concluded that the nonsigning inventor refuses to sign the application.

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in pertinent part:

> *A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application*

> *unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.* A copy of the application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... *It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray,* 115 USPQ 80 (Comm'r Pat. 1956)
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

(Emphasis added.)

In sum, Petitioner has satisfied Items (1) and (4) above. Item (3) is not yet satisfied. Further, Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a *copy of the application papers for U.S. application 10/297,713 (specification, including claims, drawings, and declaration*) to the nonsigning inventor for his signature and (2) Mr. Migliorati's

refusal to sign, either in writing or by telephone, these documents.

For the reasons set forth above, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**. The Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 17 September 2003 is hereby **VACATED**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available 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.

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P.O. BOX 8910
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In re Application of MIGLIORATI et al.	:
Application No.: 10/297,713	: DECISION ON
PCT No.: PCT/IT02/00120	:
Int. Filing: 28 February 2002	: RENEWED PETITION
Priority Date: 28 February 2001	:
Attorney Docket No.: 83992-000001US	:UNDER 37 CFR 1.47(a)
For: CONTAINER FILLING MACHINE	:

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) filed on 10 October 2006, to accept the application without the signature of joint inventor, Narciso De Antoni Migliorati. Petitioner's request for a three month extension of time is granted.

BACKGROUND

On 09 December 2002, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 04 June 2003, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) was required.

On 04 September 2003, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor Narciso De Antoni Migliorati, alleging that Mr. Migliorati refuses to sign the application.

On 17 September 2003, a Notification of Acceptance (FORM PCT/DO/EO/903) was mailed incorrectly indicating that the requirements of 35 U.S.C. 371(c) had been met.

On 8 May 2006, a decision dismissing the petition was mailed to applicant indicating that the last known address of non-signing inventor, Narciso De Antoni Migliorati, was not provided and that there was no evidence that a complete copy of the application papers, including *specification, claims and drawings* and declaration, were provided to Mr. Migliorati. Thus, a conclusion that the non-signing inventor refused to sign the application papers could not be made.

On 10 October 2006, applicant filed a renewed petition along with the statement of Robert Scotti.

DISCUSSION

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

Applicant previously satisfied Item (1) and Item (4). Item (3) is now satisfied because the last known address of non-signing inventor, Narciso De Antoni Migliorati, is provided.

With respect to Item (2) above, the petition indicates the nonsigning inventor was provided a complete copy of the application papers at his last known address. A copy of the letters dated 25 July 2006 and 21 September 2006 sent to the nonsigning inventor and the non-signing inventor's reply communication dated 3 August 2006 were attached to the statement along with the English translations of all correspondence. A third attempt to contact the non-signing on 30 September 2006 also went unanswered.

The evidence indicates that a complete copy of the application papers, including *specification, claims and drawings* and declaration, were provided to Mr. Migliorati for his consideration. Mr. Migliorati's reply dated 3 August 2006 indicated that he was "evaluating the matter and will contact you as soon as possible". Mr. Scotti indicates that Mr. Migliorati has not communicated further with him. The evidence is sufficient to demonstrate the non-signing inventor's refusal to sign the application papers.

In sum, Petitioner has satisfied Items (1) - (4) above. For the reasons set forth above, the evidence submitted supports a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 04 September 2003. The application has an international filing date of 28 February 2002 under 35 U.S.C. 363, and a date of 04 September 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

/Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459

20 JAN 2004

#4

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Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, Virginia 22202

In re Application of :
MAGERMANS, et al. : DECISION ON REQUEST
Application No.: 10/297,717 :
PCT No.: PCT/NL01/00438 : UNDER 37 CFR 1.497(d)
Int. Filing Date: 11 June 2001 :
Priority Date: 09 June 2000 :
Attorney Docket No.: 2001-1192 :
For: DRINK DISPENSING DEVICE AND :
CONTAINER FOR DRINK PROVIDED :
WITH POSITIONING MEANS :

This decision is in response to applicant's "Response to Notification of Missing Requirements and Request to Correct Inventorship Under 37 C.F.R. 1.497(d)" filed 31 December 2003.

BACKGROUND

On 11 June 2001, applicant filed international application PCT/NL01/00438, which claimed priority of an earlier application filed 09 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 December 2001. 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 09 December 2002.

On 09 December 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 First preliminary amendment.

On 06 June 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 given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 31 December 2003, applicant responded with the present petition accompanied by a combined declaration and power of attorney executed by Marcel Peter Magermans and Piet Hein

Willem TIMP; a signed statement from Piet Hein Willem TIMP and a petition for a five-month extension of time. With the filing the petition for a five-month extension of time and payment of the appropriate extension fee, the present response is considered timely filed.

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including 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 1.63;

(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).

As to Item (1), applicant has provided a statement from Piet Hein Willem TIMP declaring that he was erroneously omitted as an inventor and avowing that the error in inventorship occurred without deceptive intent.

Regarding Item (2), applicant has filed a combined declaration and power of attorney executed by Marcel Peter Magermans and Piet Hein Willem TIMP.

As Item (3), applicant has authorized the deduction of the $130.00 petition fee from Deposit Account No.: 25-0120.

Regarding Item (4), applicant has not filed an assignment for the present national stage application.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

01/22/2004 KHAYPSGH 00000001 250120 10297717
01 FC:1460 130.00 DA

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicant has now 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 **11 June 2001** and a date of **31 December 2003** under 35 U.S.C. 371.

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

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25 SEP 2003

Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of :
MAGERMAN, Marcel Peter :
Application No.: 10/297,719 :
PCT No.: PCT/NL01/00437 : DECISION ON REQUEST
Int. Filing Date: 11 June 2001 :
Priority Date: 09 June 2000 :
Attorney Docket No.: 2001-1193 :
For: CONTAINER FOR DRINK PROVIDED WITH A CHAMBER CONTAINING A FLEXIBLE DISPENSING LINE

This decision is in response to the applicant's "Response to Notification of Missing Requirements and Request to Correct Inventorship under 37 CFR 1.497(d)" filed 26 August 2003. The $130 petition fee under 37 CFR 1.17(i) will be charged to Deposit Account no. 25-0120.

BACKGROUND

On 11 June 2001, applicant filed international application PCT/NL01/00437 which claimed a priority date of 09 June 2000. The international application named Marcel Peter Magerman as the sole applicant/inventor. 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 09 December 2002.

On 09 December 2002, applicant filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 27 June 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 26 August 2003, applicant filed a "Request to Correct Inventorship under 37 CFR 1.497(d)" and a declaration executed by: Marcel Peter Magerman and Piet Hein Willem Timp.

DISCUSSION

In the instant case, the international application named Marcel Peter Magerman as an applicant/inventor. Applicant requests to add Piet Hein Willem Timp 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).

Applicant has satisfied items (1), (2) and (3). However, in order to satisfy item (4), applicant is required to submit a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b), or written confirmation that no assignee exists. Here, the international application indicates Heinken Technical Services B.V. as an applicant and it is unclear if the invention has been assigned to Heinken Technical Services B.V.

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.

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

26 FEB 2004

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Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of :
MAGERMAN, Marcel Peter :
Application No.: 10/297,719 :
PCT No.: PCT/NL01/00437 : DECISION ON REQUEST
Int. Filing Date: 11 June 2001 :
Priority Date: 09 June 2000 :
Attorney Docket No.: 2001-1193 :
For: CONTAINER FOR DRINK PROVIDED WITH A CHAMBER CONTAINING A FLEXIBLE DISPENSING LINE

This decision is in response to the applicant's "Renewed Request to Correct Inventorship under 37 CFR 1.497(d)" filed 26 January 2004. A two-month extension of time fee has charged to Deposit Account no. 25-0120.

BACKGROUND

On 11 June 2001, applicant filed international application PCT/NL01/00437 which claimed a priority date of 09 June 2000. The international application named Marcel Peter Magerman as the sole applicant/inventor. 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 09 December 2002.

On 09 December 2002, applicant filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 27 June 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 26 August 2003, applicant filed a "Request to Correct Inventorship under 37 CFR 1.497(d)" and a declaration executed by: Marcel Peter Magerman and Piet Hein Willem Timp. In a decision dated 25 September 2003, the request under 37 CFR 1.497(d) was dismissed without prejudice.

On 26 January 2004, applicant filed "Renewed Request to Correct Inventorship under 37 CFR 1.497(d)."

DISCUSSION

In the instant case, the international application named Marcel Peter Magerman as an applicant/inventor. Applicant requests to add Piet Hein Willem Timp 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).

Applicant has satisfied items (1), (2) and (3).

In regards to item (4), applicants have submitted a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b).

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 11 June 2001 and a date of **26 August 2003** 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

3-21-07

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : February 22, 2007

TO SPE OF : ART UNIT 2132

SUBJECT : Request for Certificate of Correction on Patent No.: 7,096,492

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:

Foreign Application Priority Data date of November 12, 2000 is with respect to (JP) 2000-376630 and the date of December 11, 2001 is with respect to the PCT/JP01/10834, therefor to delete the date of November 12, 2000 and substitute December 11, 2001 would appear to mistakenly reference the PCT application for the JP application.

SPE: Gilberto Barron Jr. Art Unit 2132

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May 3, 2007

Patent No. : 7096492 B2
Ser. No. : 10/297731
Inventor(s) : Yamamoto, et al.
Issued : Aug. 22, 2006
Title : **METHODS AND DEVICES FOR CARRYING OUT USER AUTHERTICATION**
Docket No. :

Re: Request for Certificate of Correction

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

Foreign Application Priority Data date of November 12, 2000 is with respect to (JP) 2000-376630 and the date of December 11, 2001 is with respect to the PCT/JP01/10834, therefore to delete the date of November 12, 2000 and substitute December 11, 2001 would appear to mistakenly reference the PCT application for the JP application.

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

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

CBN/eme

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OFFICE OF PETITIONS

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

In re Application of :
Vermesan, et al. : DECISION ON APPLICATION
Application No. 10/297,745 : FOR PATENT TERM ADJUSTMENT
Filed: April 28, 2003 :
Atty. Dkt. No.: 2800-112 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)" filed April 6, 2007.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The Determination of Patent Term Adjustment mailed February 7, 2007 indicated that the PTA to date is 473 days. The instant application for PTA was timely filed prior to issue fee payment. Applicants argue that the period of adjustment was improperly reduced 188 days in connection with applicants' response filed January 24, 2007.

The correct adjustment at the time of allowance is 848 days.

An adjustment of 848 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) can be attributed to the Office in connection with the non-final Office action mailed October 24, 2006. The adjustment began June 29, 2004, the day after the date that is four months after the date that the application fulfilled the requirements of 35 U.S.C. 371 in an international application, and ended October 24, 2006, the date that the non-final Office action was mailed[1].

Applicants timely replied to the non-final Office action mailed October 24, 2006 on January 24, 2007. Accordingly, there was no failure to engage in reasonable efforts to conclude prosecution.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 848 days.

[1] While an Office action was mailed April 20, 2006, that Office action was ~~withdrawn~~ vacated and a new Office action mailed on October 24, 2006.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file 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.

Kery A. Fries

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

Day : Tuesday
Date: 9/11/2007

PALM INTRANET

Time: 14:46:25

PTA Calculations for Application: 10/297745			
Application Filing Date:	04/28/2003	PTO Delay (PTO):	661
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	188
Post-Issue Petitions:	0	Total PTA (days):	848
PTO Delay Adjustment:	375		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
38	09/11/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	375		
29	02/07/2007	MAIL NOTICE OF ALLOWANCE			
28	02/05/2007	ISSUE REVISION COMPLETED			
27	02/05/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	02/02/2007	NOTICE OF ALLOWABILITY			
25	01/31/2007	DATE FORWARDED TO EXAMINER			
24	01/24/2007	RESPONSE AFTER NON-FINAL ACTION		188	18
23	10/24/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
22	10/24/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
21	10/23/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
20	10/20/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
19	07/19/2006	MISCELLANEOUS INCOMING LETTER			
18	04/20/2006	MAIL NON-FINAL REJECTION	661		-1
17	04/17/2006	NON-FINAL REJECTION			
16	04/28/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	03/30/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	07/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	09/27/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	04/28/2003	REFERENCE CAPTURE ON IDS			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

10	04/28/2003	FILED			
9	04/06/2004	WORKFLOW INCOMING AMENDMENT IFW			
8	10/10/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	05/20/2003	APPLICATION DISPATCHED FROM OIPE			
6	05/16/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
5	05/12/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	04/28/2003	ADDITIONAL APPLICATION FILING FEES			
3	04/28/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/08

TO SPE OF : Technology Center 2624 10/297745

SUBJECT : Request for Certificate of Correction on Patent No.: 7283651 B2

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

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 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:

VIKKRAM BALI
SPE-2624

SPE **Art Unit** 2624

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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United States Patent and Trademark Office
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STIENNON & STIENNON
612 W. MAIN ST., SUITE 201
P.O. BOX 1667
MADISON, WI 53701-1667

Mail Date: 04/21/2010

Applicant	: Timo Jaaskelainen	: DECISION ON REQUEST FOR
Patent Number	: 7628887	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/297,751	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

APR 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Pulkka et al.	:	
Application No. 10/297,764	:	LETTER REGARDING
Filed: July 17, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. : 39700-529	:	
N01US/NC15251US	:	
Title: CHANNEL ALLOCATION IN A	:	
NETWORK ELEMENT BETWEEN AT LEAST	:	
TWO NETWORKS	:	

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT AT ALLOWANCE PURSUANT TO COMMENT 43 OF THE FINAL RULE," filed November 20, 2009. Applicants request that the patent term adjustment indicated on the initial determination of patent term adjustment be corrected from seven hundred and nineteen (719) days to an unspecified number of days.

The request for review of the 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 716 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 20, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 719 days. Applicants base their request

on the Corrected Filing Receipt which was mailed on November 17, 2009, which indicates that the fulfillment date is July 17, 2003. It is noted that the 371 acceptance letter (M903) mailed on August 6, 2003 indicates that the fulfillment date is July 14, 2003.

A review of the application history supports a conclusion that Applicants are correct.

37 CFR 1.702(a)(1) states that the term of an original patent shall be adjusted by the failure of the Office to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 in an international application.

This application fulfilled the requirements of 35 U.S.C. 371 in an international application on July 17, 2003, and a non-final rejection was mailed 14 months and 826 days later, resulting in 826 days of examination delay (not 829 days, as originally calculated using July 14, 2003 as the fulfillment date).

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 716 (826 days of Office delay minus 110 days of Applicant delay) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 C.F.R. § 1.18(e). The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

PTA Calculations for Application: 10/297764			
Application Filing Date:	07/17/2003	PTO Delay (PTO):	829
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	110
Post-Issue Petitions:	0	Total PTA (days):	716
PTO Delay Adjustment:	-3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
91	04/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	826		
90	04/09/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		829	
71	08/20/2009	MAIL NOTICE OF ALLOWANCE			
70	08/17/2009	ISSUE REVISION COMPLETED			
69	08/18/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	08/18/2009	CASE DOCKETED TO EXAMINER IN GAU			
67	08/17/2009	DOCUMENT VERIFICATION			
66	08/17/2009	NOTICE OF ALLOWABILITY			
65	08/11/2009	DATE FORWARDED TO EXAMINER			
64	08/10/2009	AMENDMENT AFTER FINAL REJECTION			
63	06/25/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
62	06/16/2009	CORRESPONDENCE ADDRESS CHANGE			
61	06/09/2009	MAIL FINAL REJECTION (PTOL - 326)			
60	06/06/2009	FINAL REJECTION			
59	04/06/2009	DATE FORWARDED TO EXAMINER			
58	03/05/2009	RESPONSE AFTER NON-FINAL ACTION			
57	01/22/2009	MAIL NON-FINAL REJECTION			
56	01/21/2009	NON-FINAL REJECTION			
55	11/06/2008	DATE FORWARDED TO EXAMINER			
54	10/20/2008	RESPONSE AFTER NON-FINAL ACTION			
53	10/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
52	09/04/2008	MAIL NON-FINAL REJECTION			
51	09/02/2008	NON-FINAL REJECTION			
50	06/18/2008	DATE FORWARDED TO EXAMINER			
49	06/12/2008	RCE- AF PROCESSED			

48	06/18/2008	DATE FORWARDED TO EXAMINER			
47	06/12/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	06/18/2008	DISPOSAL FOR A RCE / CPA / R129			
45	06/12/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	06/04/2008	MAIL ADVISORY ACTION (PTOL - 303)			
43	06/04/2008	ADVISORY ACTION (PTOL-303)			
42	05/29/2008	DATE FORWARDED TO EXAMINER			
41	05/19/2008	AMENDMENT AFTER FINAL REJECTION			
40	01/16/2008	MISCELLANEOUS INCOMING LETTER			
39	03/21/2008	MAIL FINAL REJECTION (PTOL - 326)			
38	03/17/2008	FINAL REJECTION			
37	01/14/2008	DATE FORWARDED TO EXAMINER			
36	12/10/2007	RESPONSE AFTER NON-FINAL ACTION			
35	10/05/2007	MAIL NON-FINAL REJECTION			
34	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	10/01/2007	NON-FINAL REJECTION			
31	07/09/2007	NEW OR ADDITIONAL DRAWING FILED			
30	07/18/2007	DATE FORWARDED TO EXAMINER			
29	07/09/2007	RESPONSE AFTER NON-FINAL ACTION		110	25
28	06/15/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
27	03/21/2007	NEW OR ADDITIONAL DRAWING FILED			
26	04/09/2007	DATE FORWARDED TO EXAMINER			
25.1	03/21/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
25	03/21/2007	RESPONSE AFTER NON-FINAL ACTION			
24	12/22/2006	MAIL NON-FINAL REJECTION	829		-1
23	12/18/2006	NON-FINAL REJECTION			
20	09/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	08/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	08/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	04/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	06/17/2005	CORRECTED FILING RECEIPT			
14	01/17/2006	MISCELLANEOUS INCOMING LETTER			
13	12/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

12	03/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
7	10/11/2003	CLEARED BY OIPE CSR			
6	08/06/2003	APPLICATION DISPATCHED FROM OIPE			
5	08/06/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	07/14/2003	ADDITIONAL APPLICATION FILING FEES			
3	07/14/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE C. Tsang

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/297,765

Paper No.: _____

DATE : 6/8/05

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6884802

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.

BEST AVAILABLE COPY

Lamonte Newsome

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

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

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

Comments:

_____

_____

_____

_____

_____

Charles Tsang — **SPE**

1625 — **Art Unit**

23 JUN 2003

#3

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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Gregory Smith & Associates
3900 Newpark Mall Rd.
Third Floor, Suite 317
Newark, CA 94560

In re Application of	:	DECISION ON
MAGER et al	:	
Application No.: 10/297,791	:	
PCT No.: PCT/US01/04263	:	PETITION UNDER
Int. Filing Date: 09 February 2001	:	
Priority Date: 11 February 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: 193-015US	:	
For: Tissue Stabilizer	:	

This decision is in response to applicants' "Petition For Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 09 December 2002.

BACKGROUND

On 09 February 2001, this international application was filed, claiming an earliest priority date of 11 February 2000. A copy of the intentional application was transmitted on 16 August 2001 to the USPTO from the International Bureau.

A Demand electing the United States was filed in this international application on 06 September 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 11 August 2002.

On 09 December 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, basic national fee and an executed declaration.

DISCUSSION

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

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

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **09 December 2002.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
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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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

Mail Date: 04/20/2010

Applicant	: Steve Epstein	: DECISION ON REQUEST FOR
Patent Number	: 7631080	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/297,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1979** 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6817762
Issue Date: November 16,2004
Application No. 10297855
Filed: December 10,2002
Attorney Docket No. PHDE 010075 US

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

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

18 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gregory Smith & Associates
3900 Newpark Mall Road
Third Floor, Suite 317
Newark, CA 94560

In re Application of MAGER et al :
U.S. Application No.: 10/297,858 :
Int. Application No.: PCT/US01/03395 : DECISION ON PETITION
Int. Filing Date: 02 February 2001 :
Priority Date: 04 February 2000 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 193-014US :
For: AORTIC BALLOON CATHETER WITH IMPROVED POSITIONING AND BALLOON STABILITY :

This 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 09 December 2002.

BACKGROUND

On 02 February 2001, applicant filed international application PCT/US01/03395, which claimed priority of an earlier United States application filed 04 February 2000. The twenty-month period for paying the basic national fee in the United States expired at midnight on 04 October 2002.

International application PCT/US01/03395 became abandoned as to the United States at midnight on 04 October 2002 for failure to pay the basic national fee.

On 09 December 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 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 02 February 2001 and a date under 35 U.S.C. 371(c) of 09 December 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

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

08 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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#3

Frank L. Bernstein
SUGHRUE MION
1010 El Camino Real, Suite 300
Menlo Park, CA 94025

In re Application of :
FEUERBAUM, Hans-Peter : DECISION ON PETITION
Application No.: 10/0297,864 :
PCT No.: PCT/EP01/00931 :
Int. Filing Date: 29 January 2001 :
Priority Date: 01 February 2000 :
Attorney Docket No.: CQ10083 :
For: OPTICAL COLUMN FOR CHARGED :
PARTICLE BEAM DEVICE :

This decision is issued in response to applicants' "Petition Under 37 CFR 1.181 For Granting Of Filing Date And For Acceptance Of Papers As Filed" filed 26 November 2002. No petition fee is required.

BACKGROUND

On 29 January 2001, applicant filed international application PCT/EP01/00931 which claimed a priority date of 01 February 2000 and which designated the United States.

On 31 August 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was extended to expire thirty months from the priority date, i.e., 01 August 2002.

On 31 July 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, authorization to charge Deposit Account No. 19-4880 the basic national fee.

On 26 November 2002, applicants filed the "Petition Under 37 CFR 1.181 For Granting Of Filing Date And For Acceptance Of Papers As Filed" seeking confirmation of the 31 July 2002 filing. The petition includes a copy of the previously filed materials.

DISCUSSION

The application file contains the materials originally filed by applicant on 31 July 2002, and these materials bear a USPTO receipt stamp dated 31 July 2002. Accordingly, applicants' petition to confirm a 31 July 2002 filing date for these materials is moot.

CONCLUSION

Applicants' petition is **MOOT**.

The original materials filed by applicant on 31 July 2002 to initiate this national stage application are present in the application file.

Deposit Account No. 19-4880 will be charged the basic national fee of $890.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing, including the mailing of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

26 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Woodcock Washburn
One Liberty Place-46th Floor
Philadelphia, PA 19103

In re Application of AVERY et al. Serial No.: 10/297,877 PCT No.: PCT/US00/35268 Int. Filing Date: 27 December 2000 Priority Date: 28 December 1999 Attorney's Docket No.: ABDT-0557 For: ON-LINE DESIGN OF DISTRIBUTION TRANSFORMERS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 11 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $100 has been paid. The required petition fee of $1280 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 including the issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors and the surcharge for filing the oath or declaration after the 30 month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

20 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Legal Department
Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	
YUE, Henry et al.	
Application No.: 10/297,880	DECISION ON
PCT No.: PCT/US01/18395	
Int. Filing Date: 07 June 2001	PETITION
Priority Date: 08 June 2000	
Attorney's Docket No.: PF-0782 USN	UNDER 37 CFR 1.182
For: INTRACELLULAR SIGNALING PROTEINS	

This decision responds to "Communication RE Inventor Name Change," filed with the United States Patent and Trademark Office on 09 December 2002. The petition fee will be charged to deposit account no. 09-0108, as authorized.

BACKGROUND

On 07 June 2001, applicants filed international application PCT/US01/18395. On 03 January 2002, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 09 December 2002 (08 December 2002 was a Sunday).

On 09 December 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an executed declaration and the instant petition.

DISCUSSION

The petition under 37 CFR 1.182 and the accompanying statement under 37 CFR 1.182 from the inventor whose name has changed fulfill the requirements of 37 CFR 1.182. Applicants declare that Narinder K. Walia and Narinder K. Chawla are one and the same person and that her name changed subsequent to her marriage.

CONCLUSION

For the above reasons, the Petition Under 37 CFR 1.182 is **GRANTED**.

The application has an international filing date of 07 June 2001 under 35 U.S.C. §363 and a date of 09 December 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

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MAR 14 2005

OFFICE OF PETITIONS

In re Application of :
Stephen Allen Cooper :
Application No. 10/297,897 : ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. 0630/1J474US0 :

This is a decision on the petition, filed March 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

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NEW YORK NY 10150-5257

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OFFICE OF PETITIONS

In re Patent No. 6,924,303 :
Issued: 2 August, 2005 :
Application No. 10/297,897 : ON PETITION
Filed: 29 April, 2003 :
Atty Dckt No. 00630/100J474-US0 :

This is a decision on the petition filed on 8 August, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

It is noted that petitioner submitted $400.00 with the present petition. However, only a processing fee of $130.00 and certificate of correction fee of $100.00 are due. The balance will be credited to counsel's deposit account.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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Commissioner for Patents
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OTTAWA, ON K1P 1J9
CANADA

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FEB 23 2006

OFFICE OF PETITIONS

In re Application of :
Daniel Guy Pomerlau et al :
Application No. 10/297,903 :
Filed: July 7, 2003 :
Attorney Docket No. 22561-704 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 20, 2004.

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 the stated reason for the request is "No longer representing applicant." This statement does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40.

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

This matter is being referred to Technology Center AU 3748.

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

Amelia Au
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

OCT 20 2009

Niefeld IP Law, PC
4813-B Eisenhower Avenue
Alexandria, VA. 22304

In re Application of :
Mark Davis :
Application No. 10/297,914 :
Filed: December 18, 2002 :
For: TARGETED INCENTIVES BASED UPON PREDICTIVE BEHAVIOR

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT

This is a decision on applicant's Petition to the Commissioner according to 37 CFR 1.181 which was filed June 19, 2008 requesting withdrawal of the restriction requirement within the office action mailed March 31, 2008 as improper.

The petition is **DISMISSED as moot**.

A review of the record shows that a restriction requirement was mailed on March 31, 2008. A response to the restriction requirement including a provisional election with traverse was filed on April 25, 2008. The restriction requirement was made final in an office action mailed on June 12, 2008. Subsequently, during the course of prosecution, on August 6, 2006 Applicant filed a communication withdrawing all outstanding petitions in the instant application. Therefore, the petition is dismissed as moot.

Any questions regarding this decision should be directed to Alexander Kalinowski at (571) 272-6771

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

TL/SM/ak
10/2/09

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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OCT 2 0 2009

Niefeld IP Law, PC
4813-B Eisenhower Avenue
Alexandria, VA. 22304

In re Application of	:	
Mark Davis	:	DECISION ON PETITION
Application No. 10/297,914	:	TO WITHDRAW REQUIREMENT
Filed: December 18, 2002	:	TO CANCEL CONFLICTING
For: TARGETED INCENTIVES BASED UPON PREDICTIVE BEHAVIOR	:	CLAIMS

This is a decision on applicant's Petition to the Commissioner according to 37 CFR 1.181 which was filed April 1, 2009 requesting withdrawal of a requirement to cancel conflicting claims in the office action mailed December 12, 2008 as improper.

The petition is **DISMISSED as moot**.

A review of the record shows that a final rejection including a requirement to cancel conflicting claims in a double patenting rejection was mailed on December 12, 2008. Subsequently, during the course of prosecution on August 6, 2009, Applicant filed a communication withdrawing all outstanding petitions in the instant application. Therefore, the petition is dismissed as moot.

Any questions regarding this decision should be directed to Alexander Kalinowski at (571) 272-6771

Wynn Coggins,
Technology Center Director
Technology Center 3600

TL/SM/ak
10/2/09

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Niefeld IP Law, PC
4813-B Eisenhower Avenue
Alexandria, VA. 22304

In re Application of	:	
Mark Davis	:	DECISION ON PETITION
Application No. 10/297,914	:	TO WITHDRAW REQUIREMENT
Filed: December 18, 2002	:	TO ELECT AND HAVE
For: TARGETED INCENTIVES BASED UPON PREDICTIVE BEHAVIOR	:	WITHDRAWN CLAIMS REINSTATED

This is a decision on applicant's Petition to the Commissioner according to 37 CFR 1.181 which was filed February 5, 2009 requiring a withdrawal of non-elected claims by original presentation within the office action mailed December 12, 2008 as improper.

The petition is **DISMISSED as moot**.

A review of the record shows that a final rejection including a requirement to withdraw non-elected claims by original presentation was mailed on December 12, 2008. Subsequently, during the course of prosecution on August 6, 2009, Applicant filed a communication withdrawing all outstanding petitions in the instant application. Therefore, the petition is dismissed as moot.

Any questions regarding this decision should be directed to Alexander Kalinowski at (571) 272-6771

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

TL/SM/ak
10/2/09

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

Date: 1-14-2010

Patent No. : 7,323,203
Application No. : 10/297,925
Issue Date : December 17, 2009
Inventor : II, Shigeo, et. Al.

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 Rules 1.322 and 1.323.

Respecting the alleged error on the title page, item [75] inventor, is printed in accordance with the record.

In view of the foregoing your request is hereby denied.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent, which a decision is rendered on, by the Supervisory Patent Examiner.

Eva James
For: Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 576-1583 or 1580

Kratz, Quintos & Hanson, LLP
1420 K Street, NW, Suite 400
Washington, DC 20006

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-14-2010

TO SPE OF : ART UNIT 1781

SUBJECT : Request for Certificate of Correction for Appl. No.: 10297925 Patent No.: 7323203

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 – 9D10-A
Palm Location 7580

Eva James
Certificates of Correction Branch
703-756-1583 _____

Thank You For Your Assistance

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

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

Comments: _____

Approved

/Keith D. Hendricks/ 1781
SPE **Art Unit**

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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Patent No. 6,856,456 :
Issue Date: February 15, 2005 :
Application No. 10/297,954 : ON PETITION
Filed: May 12, 2003 :
Attorney Docket No. 12554/3 :

This is a decision on the petition filed March 25, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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

[1] See Official Gazette of June 22, 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/18/04

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6898011

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.

Certificates of Correction Branch

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

Stephone B. Allen
~~Supervisory Patent Examiner~~

Stephone Allen 2872

SPE Art Unit

19 NOV 2003

#6

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ALEXANDRIA, VA 22313-1450
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Jeffrey J. King
Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

In re Application of LANDAUER et al :
U.S. Application No.: 10/297,978 :
PCT Application No.: PCT/US01/19089 :
Int. Filing Date: 12 June 2001 :
Priority Date Claimed: 12 June 2000 : DECISION
Attorney Docket No.: NIHA-0072 :
For: PHYTOESTROGENIC ISOFLAVONE COMPOSITIONS, THEIR PREPARATION AND USE THEREOF FOR PROTECTION AGAINST AND TREATMENT OF RADIATION INJURY :

This is in response to applicant's "Petition in Support of Filing on Behalf of Non-Signing Inventor (37 CFR § 1.47(a))" filed 27 October 2003.

BACKGROUND

On 12 June 2001, applicant filed international application PCT/US01/19089, which claimed priority of an earlier United States application filed 12 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 11 January 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 12 December 2002.

On 11 December 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 25 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 27 October 2003, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

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

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventors Alla Shapiro and Chris Takamoto.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In the present case, the petition states that inventors Shapiro and Takamoto refuse to cooperate with the prosecution of the application. However, petitioner has not provided evidence that a bona fide attempt was made to present a copy of the application papers (including

specification, claims, drawings, and oath/declaration) to the nonsigning inventors for signature. Such evidence should include an affidavit from a person with firsthand knowledge. In addition, the affidavit of Steve Ferguson does not precisely specify to whom the purported express oral refusals were made on 27 July 2002. If Mr. Ferguson did not speak to Shapiro and Takamoto directly, an affidavit signed by the person to whom the refusal was made must be furnished.

The petition further states that inventors Shapiro and Takamoto can no longer be reached. However, the petition does not sufficiently establish that a diligent effort was made to locate the nonsigning inventors. Specifically, the petition does not describe any attempts to find forwarding addresses for the nonsigning inventors and does not detail any attempts to contact the inventors by searching telephone and Internet directories, by asking former co-workers, or by using electronic mail. Thus, it would be unreasonable to conclude at the present time that Shapiro and Takamoto cannot be reached.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known addresses of the nonsigning inventors.

CONCLUSION

Because petitioner has failed to satisfy item (2) above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

18 JUN 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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Jeffrey J. King
Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

In re Application of LANDAUER et al	:	
U.S. Application No.: 10/297,978	:	
PCT Application No.: PCT/US01/19089	:	
Int. Filing Date: 12 June 2001	:	
Priority Date Claimed: 12 June 2000	:	COMMUNICATION
Attorney Docket No.: NIHA-0072	:	
For: PHYTOESTROGENIC ISOFLAVONE COMPOSITIONS, THEIR PREPARATION AND USE THEREOF FOR PROTECTION AGAINST AND TREATMENT OF RADIATION INJURY	:	

This is in response to applicant's "Communication Regarding Renewed Petition in Support of Filing on Behalf of Non-Signing Inventor (37 CFR § 1.47(a))" filed 10 June 2004, including declarations executed by the previously nonsigning inventors.

The 10 June 2004 response is a proper reply to the decision mailed 19 November 2003.

The application has an International Filing Date under 35 U.S.C. 363 of 12 June 2001 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 10 June 2004.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this communication.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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JUN -- 1 2006

NATIONAL INSTITUTES OF HEALTH
OFFICE OF TECHNOLOGY TRANSFER
6011 EXECUTIVE BLVD SUITE 325
ROCKVILLE MD 20852-3804

In re Application of	:
Michael R. Landauer et al	:
Serial No.: 10/297,978	: PETITION TO MAKE SPECIAL
Filed: June 10, 2004	:
Attorney Docket No.: NIHA-0072	:

This is in response to the petition filed on May 19, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

M.P.E.P. 708.02, Section XI relates to petitions to make an application special for countering terrorism.

> International terrorism as defined in 18 U.S.C. 2331 includes activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (I) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnaping... 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. Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Applicants do not meet the requirements of the above section. Therefor the petition is **DENIED with respect to M.P.E.P. 708.02, Section XI**.

Applicants also request special status under M.P.E.P. 708.02, Section VIII.

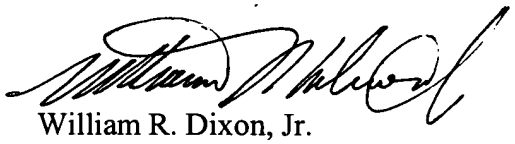
Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, Section VIII. Therefor the petition is **GRANTED with respect to this section**.

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

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

The fee for this petition of $130.00 will be charged to applicants' Deposit Account No. 23-3050, as directed.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.



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

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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: Michael R Landauer	: DECISION ON REQUEST FOR
Patent Number	: 7655694	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/297,978	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **578** 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Foley & Lardner LLP
P.O. Box 80278
San Diego, CA 92138-027

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of
Pekka Lehto

Application No. 10/297,993
Filed: June 23, 2003
Attorney Docket No. 061715-0240

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 10, 2007.

The request is **APPROVED**.

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

The request was signed by G. Peter Albert Jr. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Pekka Lehto**
Karviaistie 14, Fin
Oulu, 90800
Finland

cc: **Connolly Bove Lodge & Hutz LLP**
1990 M Street NW
Suite 800
Washington DC 20036-3425

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/297,993	06/23/2003	Pekka Lehto	061715-0240

CONFIRMATION NO. 9689

30542
FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

POWER OF ATTORNEY NOTICE

OC000000026954761

Date Mailed: 11/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2007.

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

/tswilliams/

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

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,447,192 :
Lehto : LETTER REGARDING PATENT
Issue Date: November 4, 2008 : TERM ADJUSTMENT AND NOTICE
Application No. 10/297,993 : OF INTENT TO ISSUE
Filed: June 23, 2003 : CERTIFICATE OF CORRECTION
Attorney Docket No. 088245-0218 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed December 29, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred twenty-nine (829) days to one thousand four hundred ninety-eight (1,498) days. The instant patent issued in the name of Spyder Navigations, L.L.C. and the instant request for reconsideration is filed by an attorney of record on their behalf.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTEND INDICATED HEREIN**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand and twenty-one **(1,021)** days.

Patentee is given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

Patentee maintains that the patent term methodology identified and explained in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008) governs the USPTO calculation of

the patent term adjustment for this patent. Therefore, patentee maintains that the patent term adjustment should have been 1,498 days.

Patentee argues that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 1,057 days.

The Three Year Delay period is triggered by the application's commencement date. There was no priority date claimed in the international application. The commencement date is 30 months from the international application's filing date, or earlier. A Demand was timely filed to delay commencement to 30 months, rather than 20 months. The international application's filing date is June 13, 2000. Thirty months from that date is December 13, 2002. The next day is the beginning of the Three Year Delay period. Accordingly, the period of adjustment under § 1.702(b) is 1,057 days, counting the number of days beginning on December 14, 2005 and ending on November 4, 2008, when the patent issued. Applicant asserts that in addition to this 1,057 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a) of 847 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 fulfillment of 371 requirements, pursuant to § 1.702(a)(1).

Under 37 CFR § 1.703(f), applicant is 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 applicant failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 36 days for applicant delay is not in dispute. [1] Applicant asserts that the total period of Office delay is the sum of the period of Three Years Delay (1,057 days) and the period of Examination Delay (847 days) to the extent that these periods of delay are not overlapping.

Patentee contends that 370 days of the period of delay of 847 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months

[1] The periods of reduction are, pursuant to 37 CFR 1.704(b), 1 day for the response filed March 19, 2007 and, pursuant to 37 CFR 1.704(c)(7), 35 days for the supplemental reply filed April 23, 2007.

after the date on which the application fulfilled 371 requirements (August 24, 2004 to December 18, 2006) overlaps with the Three Year Delay period (December 14, 2005 to November 4, 2008). Patentee asserts that this overlapping period is the 370 days running from December 14, 2005 to December 18, 2006.

As such, applicant asserts entitlement to a patent term adjustment of 1498 days (847 +1057 reduced by 370 overlap -36 for applicant delay).

The Office agrees that the patent issued 3 years and 1,057 days after its commencement date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 847 days is correct. At issue is whether applicant should accrue 687 (adjusted for overlap, per applicant's calculations) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 847 days for Office failure to take a certain action within a specified time frame (or examination delay).

Patentee's interpretation of the period of overlap has been considered and found to be incorrect. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent

term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for

periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the commencement date 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 commencement date of the application.

---

[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period from the application's commencement date through the date it matured into Patent No. 7,447,192, December 13, 2002 to November 4, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 847 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of these 847 days overlap with the 1,057 days for Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 1,057 days, not 847 + 1,057 days. The Office took 14 months and 847 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 847 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 1,057 days after its commencement date.

Therefore, 210 days, not 18 days, of patent term adjustment should have been entered for the Three Year Delay period, since the period of delay of 1,057 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 847 days attributable to the ground specified in § 1.702(a)(1). 1,057 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 1,057 days over three years and the 847 days of examination delay.

As such, applicant is entitled to a patent term adjustment of 1,021 days (847 days examination delay +1057 days Three Year delay reduced by 847 overlap - 36 days for applicant delay).

Accordingly, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand and twenty-one (1,021) days.

The Office acknowledges submission of the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-

identified patent is adjusted by one thousand and twenty-one (1,021) days.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,447,192 B1

DATED : November 4, 2008

INVENTOR(S) : Pekka Lehto

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 (829) days

Delete the phrase "by 829 days" and insert – by 1,021 days--

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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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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

COPY MAILED
MAR 17 2010

In re Patent No. 7,447,192	:	DECISION ON REQUEST
Lehto	:	FOR RECONSIDERATION OF
Issue Date: November 4, 2008	:	PATENT TERM ADJUSTMENT
Application No. 10/297,993	:	and
Filed: June 23, 2003	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. 088245-0218	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 7, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred ninety-eight (1,498) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred ninety-eight (1,498) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand four hundred ninety-eight (1,498) days.

Telephone inquiries specific to this decision should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,447,192 B1

DATED : November 4, 2008

INVENTOR(S) : Pekka Lehto

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1,021) days

Delete the phrase "by 1,021 days" and insert – by 1,498 days--

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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DEC 0 5 2006
OFFICE OF PETITIONS

In re Application of :
Ryuichi Shiohara :
Application No. 10/298,006 : DECISION ON PETITION
Filed: November 18, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. Q72644 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed June 9, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2621 for action on the merits commensurate with this decision.

David Bucei
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of
Kazuya Tsujimura et. al.
Application No. 10/298,009
Filed: November 18, 2002
Attorney Docket No. 990666A

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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JUL 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Pfahl et al. :
Application No. 10/298,024 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. 13099.0018U2 :

This is a decision on the petition under 37 CFR 1.182, filed April 21, 2003, to change the name of an inventor.

The petition is **dismissed**.

MPEP 605.04(c) states:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The affidavit is not signed with both names. An appropriately signed affidavit should be filed.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Ezra L. Schacht
1620 West Main Street
Houston, TX 77006

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DEC 10 2004

OFFICE OF PETITIONS

In re Application of :
Neal B. Gittleman :
Application No. 10/298,026 : ON PETITION
Filed: November 16, 2002 :
Attorney Docket No. None :

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

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed February 11, 2004. A Notice of Abandonment was mailed on September 10, 2004.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3732 for consideration of the response filed October 12, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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APR 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Harry Duke	:	DECISION ON PETITION
Application No. 10/298,036	:	TO WITHDRAW
Filed: November 15, 2002	:	FROM RECORD
Attorney Docket No. 1639.001US1	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 18, 2010.

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 request was signed by Bradley A. Forrest on behalf of all attorneys of record associated with Customer Number 21186. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

Further, the Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on February 18, 2010 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> (1) given reasonable notice to the client, prior to the expiration of the reply 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 replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with item (2) of the above certifications. Petitioner states that the "We have offered to send papers, but the client has previously indicated they do not want us to send papers. The client indicated that they obtain the papers electronically." Item (2) is the certification that all papers and property have been delivered to the client or a duly authorized representative.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, a decision by the Board of Patent Appeals and Interferences was mailed February 17, 2010.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR - 5 2005

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APR - 5 2005

OFFICE OF THE DIRECTOR
TC 3600

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
Kazuya Otsuji et al. :
Application No. 10/298,057 :
Filed: November 18, 2002 :
For: PET TOILET :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on July 19, 2004.

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

☒ Postcard receipt being dated October 30, 2003.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

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

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

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

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

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

RAR/vdb: 8/11/04

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 18

HOWREY SIMON ARNOLD & WHITE, LLP
BOX 34
301 RAVENSWOOD AVE.
MENLO PARK, CA 94025

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MAR 1 2 2004

OFFICE OF PETITIONS

In re Patent of :
Moser et al. :
Patent No. 6,444,431 :
Issue Date: September 3, 2002 : Decision on Petition
Application No. 09/314,159 :
Filing Date: May 19, 1999 :
Attorney Docket No. 05882.0102.NPUS00 :

This is a decision on the petition under 37 CFR 1.182, filed February 25, 2003, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

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 Files Repository.

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (703) 306-5683. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to either Krystal Paige at (703) 305-8237.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD, Crystal Park 3-910 (FAX 305-4372)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. ____

SPRINT COMMUNICATIONS COMPANY LP
6391 SPRINT PARKWAY
KSOPHTO101-Z2100
OVERLAND PARK, KS 66251-2100

COPY MAILED

AUG 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Larry L. Johnson :
Application No. 10/298,074 : DECISION GRANTING PETITION
Filed: November 15, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2039/SPRI.100209 :

This is a decision on the petition, filed August 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 July 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred 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.

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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DEC 0 5 2006
OFFICE OF PETITIONS

In re Application of :
Ryuichi Shiohara :
Application No. 10/298,085 : DECISION ON PETITION
Filed: November 18, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. Q72643 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed June 9, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2621 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

COPY MAILED
SEP 10 2008

In re Application of	:	
Ryuichi Shiohara	:	
Application No. 10/298,085	:	DECISION GRANTING PETITION
Filed: November 18, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q72643	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 4, 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 August 29, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2621 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.

April M. Wise
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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WASHINGTON, DC 20037-3213

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AUG 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Ryuichi SHIOHARA :
Application No. 10/298,085 : DECISION GRANTING PETITION
Filed: November 18, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **Q72643** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 5, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 25, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

COPY MAILED

DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Ryuichi Shiohara :
Application No. 10/298,085 : DECISION GRANTING PETITION
Filed: November 18, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q72643 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 18, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 19, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. John Bird appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Bird desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

---

[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.*

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

Sughrue
SUGHRUE MION, PLLC

2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213
T 202.293.7060
F 202.293.7860

www.sughrue.com

FAX

Date	December 18, 2009		
To	Office of Petitions		
Of	U.S. Patent and Trademark Office		
Fax	(571) 273-0174		
From	John M. Bird *Reg. No. 46,027*		
Subject	PETITION TO WITHDRAW APPLICATION FROM ISSUANCE		
Our Ref	Q72643	Appln No	10/298,085
Conf No	4046	Inventors	Ryuichi SHIOHARA
Pages	7 (including cover sheet)		

Please call attention to problems with this transmission by return fax or telephone. Thank you.

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL, MAY BE ATTORNEY-CLIENT PRIVILEGED, AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE OR COPYING IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US.

This fax filing includes:
1. This cover sheet
2. Petition To Withdraw Application From Issuance {two pages} with authorization to charge PODA $130
3. Request for Continued Examination {one page} with authorization to charge PODA $810
4. Information Disclosure Statement and PTO/SB/08 {three pages}

CERTIFICATION OF FACSIMILE TRANSMISSION

Sir:

I hereby certify that the above identified correspondence is being facsimile transmitted to the Office of Petitions at the Patent and Trademark Office on August 5, 2009 at facsimile no. (571) 273-0174

Respectfully submitted,

/John M. Bird/

John M. Bird

SPECIAL PROCEDURES SUBMISSION

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	Docket No: Q72643
Ryuichi SHIOHARA	Allowed: August 21, 2009
Appln. No.: 10/298,085	Group Art Unit: 2621
Confirmation No.: 4046	Examiner: Robert CHEVALIER

Filed: November 18, 2002

For: DIGITAL CAMERA AND PRINTING SYSTEM

PETITION TO WITHDRAW APPLICATION FROM ISSUANCE IN ACCORDANCE WITH 37 C.F.R. §1.313(a) and (c)(2)

MAIL STOP 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions the Commissioner to withdraw the above-identified application from issuance in accordance with 37 C.F.R. §1.313(a) and (c)(2). Insofar as Applicant can determine, although the Issue Fee was paid on November 19, 2009, the above-identified application has not been accorded an issue date or a patent number.

The present petition is being filed to request consideration of a Request for Continued Examination (RCE) in compliance with 37 C.F.R. §1.114 and consideration of an Information Disclosure Statement under 37 C.F.R. §1.97 in the above-identified application.

An Information Disclosure Statement and RCE are being filed concurrently herewith.

12/23/2009 LDIEP1 00000001 134880 10298085

01 FC:1464 130.00 DA

PETITION TO WITHDRAW APPLICATION FROM ISSUANCE
U.S. Appln. No. 10/298,085

The USPTO is directed and authorized to charge the petition fee of **$130.00** (37 C.F.R. §1.17(h)) and all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/John M. Bird/

John M. Bird
Registration No. 46,027

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860
WASHINGTON DC SUGHR:JE/265550
65565
CUSTOMER NUMBER

Date: December 18, 2009

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

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

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995

Application Number	10/298,085
Confirmation Number	4046
Filing Date	November 18, 2002
First Named Inventor	Ryuichi SHIOHARA
Group Art Unit	2621
Examiner Name	Robert CHEVALIER
Matter Number	Q72643
Title	DIGITAL CAMERA AND PRINTING SYSTEM

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

1. SUBMISSION REQUIRED UNDER 37 C.F.R. § 1.114

a. ☐ Previously submitted
   i. ☐ Please enter and consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on _____
   ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
   iii. ☐ Other _____

b. ☑ Enclosed
   i. ☐ Amendment/Reply
   ii. ☐ Affidavit(s)/Declaration(s)
   iii. ☑ Information Disclosure Statements (IDS)
   iv. ☐ Petition for Extension of Time
   v. ☑ Other Petition to Withdraw Application from Issuance in Accordance with 37 C.F.R. §1.313(a) and (c)(2)

2. MISCELLANEOUS

a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of _____ months

b. ☐ Other _____

3. FEES

The USPTO is directed and authorized to charge the RCE statutory fee of $810.00 and all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

CORRESPONDENCE ADDRESS

Direct all correspondence to the address for SUGHRUE MION, PLLC filed under the Customer Number listed below:

WASHINGTON DC SUGHRUE/265550

65565
CUSTOMER NUMBER

12/23/2009 LDIEP1 00000001 194880 10298085
02 FC:1081 810.00 DA

SIGNATURE OF ATTORNEY

Name John M. Bird Registration No. 46,027

Signature /John M. Bird/ Date December 18, 2009

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Ryuichi SHIOHARA

Appln. No.: 10/298,085

Confirmation No.: 4046

Filed: November 18, 2002

Docket No: Q72643

Group Art Unit: 2621

Examiner: Robert CHEVALIER

For: DIGITAL CAMERA AND PRINTING SYSTEM

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §§ 1.97 and 1.98

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

Sir:

In accordance with the duty of disclosure under 37 C.F.R. § 1.56, Applicant hereby notifies the U.S. Patent and Trademark Office of the documents which are listed on the attached PTO/SB/08 (modified) form and/or listed herein and which the Examiner may deem material to patentability of the claims of the above-identified application.

The present Information Disclosure Statement is being filed: (1) No later than three months from the application's filing date; (2) Before the mailing date of the first Office Action on the merits (whichever is later); or (3) Before the mailing date of the first Office Action after filing a request for continued examination (RCE) under §1.114, and therefore, no Statement under 37 C.F.R. § 1.97(e) or fee under 37 C.F.R. § 1.17(p) is required.

The listed references were cited by the Examiner in a related application, USSN 11/562,791.

INFORMATION DISCLOSURE STATEMENT
U.S. Appln. No.: 10/298,085

Attorney Docket No.: Q72643

The submission of the listed documents is not intended as an admission that any such document constitutes prior art against the claims of the present application. Applicant does not waive any right to take any action that would be appropriate to antedate or otherwise remove any listed document as a competent reference against the claims of the present application.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/John M. Bird/

John M. Bird
Registration No. 46,027

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860
WASHINGTON DC SUGHR-JE/265550
65565
CUSTOMER NUMBER

Date: December 18, 2009

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Not for submission under 37 CFR 1.99)

Application Number	10/298,085
Confirmation Number	4046
Filing Date	November 18, 2002
First Named Inventor	Ryuichi SHIOHARA
Art Unit	2621
Examiner Name	Robert CHEVALIER
Attorney Docket Number	Q72643

U.S. PATENTS

Examiner Initials*	Cite No	Patent Number	Kind Code[1]	Issue Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	1	6493757	B1	2002-12-10	SAKAI et al.	
	2	6784924	B2	2004-08-31	WARD et al.	

U.S. PATENT APPLICATION PUBLICATIONS

Examiner Initials*	Cite No	Publication Number	Kind Code[1]	Publication Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	3	20030142215	A1	2003-07-31	WARD et al.	

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No	Foreign Document Number[3]	Country Code[2]	Kind Code[4]	Publication Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[5]

NON-PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city, and/or country where published.	T[5]

EXAMINER SIGNATURE

Examiner Signature		Date Considered	

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	8081
RECIPIENT ADDRESS	2022937860
DESTINATION ID	
ST. TIME	12/18 16:51
TIME USE	01'32
PGS.	7
RESULT	OK

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/1/04

TO SPE OF : ART UNIT ~~2818~~ 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6,977,847

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

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

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

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

Comments:

TL

2827

SPE — Art Unit

OIPE IAP68
FEB 09 2006
PATENT & TRADEMARK OFFICE

CofC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	§	
	§	
Menahem Lasser et al.	§	Patent no. 6,977,847 B2
	§	Issued: Dec. 20, 2005
Serial No.: 10/298,094	§	
	§	
Filed: November 18, 2002	§	Group Art Unit: 2818
	§	
For: Detecting partially erased units in flash devices	§	
	§	
	§	Attorney Docket No.: 246/103

Certificate
FEB 13 2006
of Correction

Examiner: Thong Quoc Le
Commissioner of Patents and Trademarks
Washington, D.C. 20231

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 CFR1.322(a))

1. Attached in duplicate is Form PTO-1050 with at least one copy being suitable for printing.

2. The correction is not due to any error by applicant and no fee is due.

3. Claim #14, which appeared in the original application, as well as in the response to an office action which we filed on September 19, 2004, was inadvertently not printed in the Letters Patent. Claim #14 reads "The method of claim 1, wherein said flag registers are nonvolatile".

Respectfully submitted,

Mark M. Friedman
Attorney for Applicant
Registration No. 33,883

Dated: 5 February, 2006

FEB 15 2006

UNITED STATES 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 23 2010

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,582,309	:	DECISION ON REQUEST
Rosenberg et al.	:	FOR
Issued: September 1, 2009	:	RECONSIDERATION OF
Application No. 10/298,112	:	PATENT TERM ADJUSTMENT
Filed: November 15, 2002	:	AND
Docket No. 04712/052001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand forty-nine (1049) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand forty-nine (1049) days is **GRANTED to the extent indicated herein.**

In calculating the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"), patentees indicate the period of delay ended on August 4, 2008, the date the second Request for Continued Examination ("RCE")was filed.

Unless a RCE is filed, the period of B Delay ends of the date the patent issues. In this case, a RCE was first filed February 12, 2007. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The period of B Delay in this case is 453 days, which is the number of days beginning on November 16, 2005, the day after the

date three years after the filing date, and ending February 11, 2007, the day before the date the RCE was filed.

The correct patent term adjustment is 509 days, which is the sum of 620 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 453 of B Delay and reduced by 564 days for Applicant delay.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred nine (509)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,309 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Rosenberg 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 56 days

Delete the phrase "by 56 days" and insert – by 509 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 03-03

Paper No. 5

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

COPY MAILED

MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Hans M. Christen	:	
Application No. 10/298,115	:	DECISION DISMISSING
Filed: 10 January, 2003	:	PETITION
Attorney Docket No. MR1897-19/C	:	

This is a decision in reference to the paper styled as a petition under 37 CFR 1.182 or 1.182 filed on 10 January, 2003, which is treated as a petition requesting that the above identified application be accorded a filing date of 18 November, 2002, with a complete specification, including at least one claim, as a part of the original disclosure.

The petition is **dismissed**.

The application was deposited on 18 November, 2002, without a specification, including at least one claim, or drawings. On 23 October, 2002, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application was missing the specification, and that the filing date would be the date a complete specification in compliance with 35 U.S.C. § 112, was received. A two (2)-month period for reply was set. On 10 January, 2003, applicants filed the specification, including 23 claims and one (1) page of abstract, and five (5) sheets of drawings.

The present petition was filed on 10 January, 2003. Petitioners assert that the application is a continuation of Application No. 09/326,585, filed on 7 June, 1999 (issued as U.S. Patent No. 6,497,193 on 24 December, 2002).

Petitioner concedes that the specification was inadvertently omitted from the filing of the present continuation application, but pleads that the application be permitted to maintain copendency with the prior application, which has now issued. Specifically, petitioner states that the specification was omitted due to a clerical error, and that according the present

application the date that the specification was deposited will prejudice applicants' rights, as they will not be able to maintain copendency with the prior application.

The arguments have been considered, but are not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that no pages of specification or sheets of drawings were filed on 18 November, 2002. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, *e.g.*, the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[1]

At the outset, it is noted that had petitioner utilized an itemized return postcard in accordance with Section 503 of the Manual of Patent Examining Procedure (MPEP), petitioner could have avoided the predicament that has now occurred. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all of the items listed thereon on the date stamped thereon by the USPTO. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization

[1] MPEP 503.

of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[2] While petitioners have included a copy of a postcard receipt bearing an "Office-date" stamp of 18 November, 2002, the postcard fails to itemize the filing of any pages of specification.

Further, petitioners' assertion that this application is a continuation of an earlier-filed application is not persuasive. A review of the record reveals that no specification was received on 18 November, 2002. Clearly the specification, including at least one claim, was intended to be a part of this application. Whether the specification was a part of a copending application is not an issue here since the copending application was not specifically incorporated by reference into the disclosure of this application.[3] The mere reference to another application is not an incorporation of anything therein into the application containing the reference.[4] To allow one to retroactively incorporate by reference a second application into a first application would allow the addition of matter into an application that was not present on filing which would be contrary to our statutes and rules. Still further, the question of new matter is not an issue here. A specification, including claims were simply not filed in the present application in the USPTO on 18 November, 2002.

In addition to a properly itemized postcard, petitioner may avoid in the future the predicament which has occurred by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in

---

[2] MPEP 503.

[3] See MPEP 608.01(p).

[4] See In re de Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973); Dart Industries v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980).

the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit petitioner to amendment the continuing application to include any subject matter in such prior application(s), without the need for a petition.[5]

It is noted that a petition under 37 CFR 1.182 is inappropriate when requesting waiver of a regulation. Considered under 37 CFR 1.182, to the extent the USPTO might have any discretion in this matter, the circumstances of this application do not demonstrate that justice requires extraordinary relief.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interest party, subject to such other requirements as may be imposed.[6] Petitioner has not shown that either condition exists in this case.

It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR 1.183.[7] Waiver of the rules is not warranted when a party makes an avoidable mistake in filing papers.[8]

That is, a lack of knowledge of, or the failure to properly apply, the patent statutes, rules of practice, and procedures before the USPTO is not an adequate basis for requesting extraordinary relief. Specifically, circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice

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[5]MPEP 201.06(c).

[6]In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

[7]See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995).

[8]Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994).

require the granting of relief.[9] Likewise, clerical inadvertence or error is not a ground for requesting waiver of the regulations.[10]

Petitioner has not explained why a copy of the specification from the prior application was not included, nor why the lengthily transmittal letter included with the application papers deposited on 18 November, 2002, failed to incorporate by reference the prior application. While it is noted that the papers filed on 18 November, 2002, do make several references to the prior application there is no incorporation by reference of the prior application. Petitioner has not explained who completed the application papers and who reviewed them prior to transmitting them to the USPTO. With regard to petitioner's argument that the application "implicitly" incorporated by reference the prior application, as stated above, the mere reference to a prior application is not an incorporation thereof.

Petitioner also apparently faults the USPTO for not promptly notifying petitioner that the application was incomplete. Although the USPTO attempts to notify parties as to defective papers in order to permit timely refiling, it has no obligation to do so.[11] Rather, it is the applicants who are ultimately responsible for filing proper documents.[12] That there was a delay in advising applicants that the reply to the Notice to File Missing Parts was not fully satisfactory is regretted, but, as noted above, part of applicants' assumed risk. That is, the failure to supply the proper reply was the fault of petitioners, not the PTO. As noted in Brenner v. Ebbert, 398 F.2d. 762, 765, 157 USPQ 609, 611 (D.C. Cir. 1968), *cert. den.* 159 USPQ 799:

> The Constitution requires notice reasonably designed to forewarn against approaching default; but it does not insure against the effects of a mistaken response to timely notice knowingly received.

Furthermore, assuming, *arguendo*, the USPTO did have such an

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[9] See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

[10] See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

[11] See In re Colombo Inc., 33 USPQ2d 1530, 1532. (Comm'r Pat. 1994).

[12] Id.

obligation, the delay between the depositing of the present application papers and the mailing of the Notice of Incomplete Application was five (5) weeks, hardly an excessive delay. Rather, applicants assumed the risk of not obtaining copendency by filing defective application papers almost a month after the issue fee was paid in the prior application. Applicants knew or should have known that the prior application could issue shortly after payment of the issue fee.

In summary, the showing of record is that, rather than extraordinary circumstances, the application was not complete on filing due to the mistakes of counsel. Failure of counsel to act properly does not constitute an extraordinary circumstance where justice requires waiver of a rule. Rather than extraordinary circumstances, the showing of record is that the proper procedures were not followed due to a lack of diligence on the part of petitioners.

As petitioners have provided no convincing evidence that the specification, including claims, was filed in the USPTO on 18 November, 2002, the petition must be **dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended.[13]

The application will be retained in the Office of Petitions for TWO (2) MONTHS to await petitioner's response to this decision, including a complete specification. If no response is received within TWO (2) MONTHS, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 10 January, 2003, using the specification and drawings filed on that date.

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

[13] 37 CFR 1.181(f).

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 08-03

Paper No. 7

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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AUG 0 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Hans M. Christen	:	
Application No. 10/298,115	:	DECISION DENYING
Filed: 10 January, 2003	:	PETITION
Attorney Docket No. MR1897-19/C	:	

This is a decision in reference to the request for reconsideration, filed by facsimile on 23 May, 2003, which is treated as a renewed petition under 37 CFR 1.182 or 1.183 requesting that the above identified application be accorded a filing date of 18 November, 2002, with a complete specification, including at least one claim, as a part of the original disclosure.

The petition is **denied**.[1]

BACKGROUND

On 18 November, 2002, an application transmittal sheet identifying the present application as a continuation of Application No. 09/326,585 (issued as U.S. Patent No. 6,497,193 on 24 December, 2002), a preliminary amendment, and a declaration were deposited in the United States Patent and Trademark Office (USPTO). Accordingly, on 23 October, 2002, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the specification, including at least one claim, was missing.

In response, on 10 January, 2003, applicant filed a specification, including 23 claims, and an abstract. A petition was also filed on that date requesting that the application be

[1] This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02. The provisions of 37 CFR 1.181(f) *do not apply* to this decision.

accorded a filing date of 18 November, 2002. The petition was dismissed, however, because applicant did not provide proof that a complete application had been filed on 18 November, 2002. Instead, the application was accorded a filing date of 10 January, 2003.

STATUTE AND REGULATION

35 U.S.C. § 21 states in pertinent part:

(A) The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruption or emergencies designated by the Director.

35 U.S.C. § 111 states in pertinent part:

(a) In general.

(1) Written Application. An application for patent shall be made, or authorized to be made, by the inventor, except as otherwise provided in this title, in writing to the Director.

(2) Contents. Such application shall include--

(A) a specification as prescribed by section 112 of this title;

(B) a drawing as prescribed by section 113 of this title;

(C) an oath by the applicant as prescribed by section 115 of this title

(3) Fee and oath. The application must be accompanied by the fee required by law. The fee and oath may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director.

(4) Failure to submit. Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the fee and oath was unavoidable or unintentional. **The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.**

37 CFR 1.53(b) states in pertinent part:

Application filing requirements--Nonprovisional application. The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. § 112 containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office.

37 CFR 1.183 states:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interest party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

OPINION

The present renewed petition again requests that the application be accorded a filing date of 18 November, 2002, rather than the presently accorded filing date of 10 January, 2003. Petitioner concedes that a specification was not filed in the present application on 18 November, 2002, and that the present application did not include a statement incorporating by reference the prior application. Petitioner states that, nevertheless, the present application incorporated by reference the prior application, and that petitioner will be irreparably harmed if the earlier filing date is not granted since applicants will not be able to maintain copendency with the prior application, which issued prior to 10 January, 2003.

Petitioner in effect argues that the words "incorporation by reference" are not necessary to incorporate by reference a prior application, and assert that the Office takes a rigid stance in contravention of case law by requiring such "magic words." Petitioner instead argues that incorporation by reference may be effected by other means. Petitioners cite the case of *In re Voss*[2] and *In re Hughes, Jamieson, and Kochhar*[3] as supporting the

[2]194 USPQ 267 (CCPA 1977).

[3]193 USPQ 141 (CCPA 1977).

proposition that the language "incorporated by reference" need not be used to incorporate by reference a prior application into the referring application.

Petitioner's arguments have been carefully considered, but are not persuasive. Petitioner appears to be confusing the right to have the benefit of the filing date of an earlier application under 35 U.S.C. § 120 with the "incorporation *by reference* in an application of matter elsewhere written down (not necessarily in a patent application) for economy, amplification, or clarity of exposition, by means of an incorporating statement clearly identifying the subject matter which is incorporated and where it is to be found."[4] In *Voss*, the court explicitly stated that the applicant was permitted to rely on the reference to a prior application to incorporate a discussion of preparing materials for appellant's strengthening process.[5] In reversing the Board of Patent Appeals and Interferences, the *Voss* court noted that the applicant was **not** relying on the reference to gain an earlier effective filing date.[6] In the present case, however, applicant attempts to rely on such a reference to obtain an earlier filing date.

Similarly, the *Hughes* court dealt with a reference to an earlier application for purposes of describing methods of preparing polymers used in the process of the invention, **not** for purposes of obtaining an earlier filing date.[7] As such, the question addressed in *Hughes* has no bearing on the issues in the present application.

Petitioner further argues that the inclusion of a copy of the declaration from the parent application, as well as the reference to the parent application, clearly indicates petitioner's intent to incorporate by reference the prior application. Petitioner's argument is not well taken, however, as the Office must rely on the official record. The fact that petitioner may have now state that he intended to incorporate by reference a prior application is not more persuasive than the papers located in the official

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[4] In re de Seversky, 474 F.2d 671, 674, 177 USPQ 144, 146 (CCPA 1973) in Voss supra, 194 USPQ at 270.

[5] 194 USPQ at 270.

[6] Id.

[7] See 193 USPQ at 143.

file. As the official record does not reflect that the prior application was actually incorporated by reference, the application is not entitled to a filing date earlier than 10 January, 2003. As stated in *In re de Seversky*,[8] the mere reference to another application is not an incorporation of anything.

Lastly, petitioner, cites the case of *In re Lund and Godtfredsen*, in which the court held that the reference of a case as a continuation-in-part of another case did not constitute an incorporation by reference of the earlier case. Petitioner seeks to differentiate the present case on the grounds that it is a continuation of the parent case rather than a continuation in part. Petitioner further argues, citing the definition of MPEP 201.07, that "[t]he term "continuation" is...a unique term of art which - by definition - describes with specificity the full substance of its disclosure relative to the prior parent application it references, perhaps to the point of even rendering *superfluous* an express incorporation by reference. (Emphasis in original). Petitioner's argument, essentially that designating an application as a continuation of a prior application means that the disclosure of the continuation must by its nature contain the entire disclosure of the prior application, conflicts with MPEP 201.06(c), which states that the specification and drawings of a continuation or a divisional application filed under 37 CFR 1.53(b) are not limited to a reproduction or "true copy" of the prior application, *i.e.*, the applicant may revise the specification for clarity or contextual purposes *vis-a-vis* the specification originally filed in the prior application in the manner that an applicant may file a substitute specification. As such, there is no requirement that the disclosure of a continuation application be the identical disclosure as that of the parent, and the Office will not assume as much. Rather, MPEP 201.06(c) states that the specification and drawings of a continuation or divisional are not limited to a reproduction or "true copy" of the prior application. Further, MPEP 201.06(c) explicitly states that "[a]s a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference". As such, the MPEP clearly states that a continuation application does not by definition include a copy of the prior application,

[8] See Note 4, supra.

and that language clearly incorporating by reference the prior Under 37 CFR 1.183, the Commissioner may waive requirements of the rules so long as those requirements are not requirements of the statute.[9]

Under 35 U.S.C. § 111, the filing date of an application is defined as the date the specification and drawings are received in the U.S. Patent and Trademark Office. Under 35 U.S.C. § 21, the Commissioner is permitted, but not required, to by rule prescribe that any paper or fee required to be filed in the U.S. Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designed by the Commissioner.

Since there were no postal service interruptions or emergencies designated by the Commissioner on 18 November, 2002, the only basis under the statute for according this application a filing date of 18 November, 2002, would be a showing that a complete application (specification, including claims, and drawings) was deposited with the United States Postal Service on 18 November, 2002.

Applicant admits, however, and the evidence indicates, that a complete application was not deposited with the United States Postal Service on 18 November, 2002. Since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute.[10] That is, the USPTO simply lacks the authority or the discretion to relax any requirement of law.[11]

The Office is not unmindful of petitioner's predicament in that the prior application issued on 24 December, 2002. Nevertheless, waiver of the rules is not warranted when a party makes an avoidable mistake in filing papers.[12] Clerical inadvertence or

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[9] In re Kruysman, Inc., 199 USPQ 110 (Comm'r Pats. 1977).

[10] A.F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977).

[11] See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); A. F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977)(since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute).

[12] Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994).

error leading to a loss of right is not a ground for requesting waiver of the regulations.[13]

In summary, by statute the filing date of a nonprovisional application is the date that a specification and a drawing are received in the USPTO. As petitioner's counsel concedes that the application was not deposited in the USPTO on 18 November, 2002, the application papers are not entitled to a filing date of 18 November, 2002.

Accordingly, to grant the requested relief would be contrary to the patent statute.

DECISION

In summary, by statute the filing date of an application is set by statute as the day the specification and drawings are (a) filed in USPTO or (b) deposited with the USPS as permitted by regulation. The application papers for the above-identified application, however, were neither in the custody of the USPTO or the USPS on the requested filing date. Therefore, the USPTO simply lacks the discretion or the authority to grant the requested relief, and assuming, *arguendo*, such discretion or authority does exist, petitioner has not provided adequate grounds for it to be exercised under the circumstances of this case. The filing date of the application remains 10 January, 2003. The petition is **denied**.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 10 January, 2003, using the specification and drawings filed on that date.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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[13] See In Re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

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23413
Cantor Colburn, LLP
55 Griffin Road South
Bloomfield, CT 06002

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 7

In re application of
Ragui N. Selwanes et al.
Application No. 10/298132
Filed: November 15, 2002
For: METHOD, SYSTEM AND STORAGE FOR FACILITATING MULTI-PARTY TRANSACTIONS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on March 11, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed March 11, 2003 fails to adequately meet requirement (E) above. Applicant has provided twenty ~~(20)~~ 18 copies of references in compliance with section (D) above that these references are deemed most closely related to the subject matter of the claims however, applicant only provides a detailed discussion with two (2) of the references provided. Applicant must provide a detailed discussion of how the claimed subject matter is patentable over all the references deemed most closely related to the subject matter encompassed by the claims.

For the above stated reasons, the petition is DISMISSED.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

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

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

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

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

KJD/ekn 10/1/03

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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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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

MAILED

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 9

In re application of : **DECISION ON PETITION**
Ragui N. Selwanes et al. : **TO MAKE SPECIAL**
Application No. 10/298,132 : **(ACCELERATED**
Filed: November 15, 2002 : **EXAMINATION)**
For: METHOD, SYSTEM AND STORAGE FOR FACILITATING MULT-PARTY TRANSACTIONS

This is in response to the renewed petition filed on October 24, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

SNM/cps 11/6/03

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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INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE CA 95141

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OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	
Application No. 10/298,136	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. SVL920020081US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 11, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

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 (1) and (2). After a review of USPTO financial records, it appears that the petition fee, issue fee and publication fee are missing. Petitioner states that a fee payment is enclosed with the instant petition, but it appears that the fees may have been mistakenly not enclosed.

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[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).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE CA 95141

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In re Application of	:	
Smith et al.	:	
Application No. 10/298,136	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. SVL920020081US1	:	

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

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of :
H. Earl Ferguson, et. al. :
Application No. 10/298,137 : DECISION ON PETITION
Filed: Novermber 18, 2002 :
Attorney Docket No. 82771P092C3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before July 18, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 18, 2008. Accordingly, the date of abandonment of this application is July 19, 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 $1510, (2) the petition fee of $1620; 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 or authorization of agent to prosecute the above-identified patent. However, in accordance with 37CFR 1.34(a), the signature of Thinh V. Nguyen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney or authorization of agent must be submitted.

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

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

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SEP 11 2003

OFFICE OF PETITIONS

ALFRED J. MANGELS
4729 CORNELL ROAD
CINCINNATI OH 45241-2433

In re Application of :
Ahnert et al. :
Application No. 10/298,141 : DECISION DISMISSING PETITION
Filed: 16 November, 2002 :
Atty's Docket No. GS 0423 B :

This is a decision on the petition styled under 37 CFR 1.181 and 1.182, filed by facsimile on 25 June, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including one (1) sheet of drawings containing Figure 9, be accorded a filing date of 16 November, 2002.

On 16 November, 2002, the application was filed.

On 12 June, 2003, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of 16 November, 2002, but that Figure 9 described in the specification appeared to have been omitted.

In response, on 25 June, 2003, one (1) sheet of drawings containing Figure 9, the present petition, and authorization to charge the petition fee to counsel's deposit account were filed by facsimile. Petitioners argue that one (1) sheet of drawings containing Figure 9 was filed with the other application papers on 16 November, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 25 June, 2003. The postcard receipt shows an Office date stamp of 16 November, 2002, and the above-identified application number, and acknowledges receipt, *inter alia*, of 14 sheets of drawings. Petitioners request that the application, including the one (1) sheet of drawings containing Figure 9, be accorded a filing date of 16 November, 2002.

A review of the record reveals that 13 sheets of drawings, containing Figures 1,2, 3A-B, 4, 5, 6A-B, 7A-D, 8A-C, 10, 11A-B, 12A-C, and 13A-B are located among the application papers deposited on 16 November, 2002. However, the evidence is convincing that the application papers deposited on 16 November, 2002, included one (1) sheet of drawing containing Figure 9 as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1)

sheet of drawing containing Figure 9 as described in the specification, is entitled to a filing date of 16 November, 2002.

The petition must be dismissed, however, because application drawings may not be submitted by facsimile.[1] Therefore, the petition is **dismissed** without prejudice to reconsideration pending submission of an original copy of the one (1) sheet of drawings containing Figure 9 by mail or courier.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 16 November, 2002, using only the application papers filed on that date.

Counsel's deposit account, No. 50-1300, has been charged the petition fee of $130.00 as authorized in the present petition.

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

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

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquires should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] MPEP 502.01.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

ALFRED J. MANGELS
4729 CORNELL ROAD
CINCINNATI OH 45241-2433

COPY MAILED

OCT 2 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Ahnert et al.	:	
Application No. 10/298,141	:	DECISION GRANTING PETITION
Filed: 16 November, 2002	:	
Atty's Docket No. GS 0423 B	:	

This is a decision on the petition entitled "Request for Reconsideration", filed on 3 October, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including one (1) sheet of drawings containing Figure 9, be accorded a filing date of 16 November, 2002.

On 16 November, 2002, the application was filed.

On 12 June, 2003, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of 16 November, 2002, but that Figure 9 described in the specification appeared to have been omitted.

In response, on 25 June, 2003, one (1) sheet of drawings containing Figure 9, the present petition, and authorization to charge the petition fee to counsel's deposit account were filed by facsimile. Petitioners argue that one (1) sheet of drawings containing Figure 9 was filed with the other application papers on 16 November, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 25 June, 2003. The postcard receipt shows an Office date stamp of 16 November, 2002, and the above-identified application number, and acknowledges receipt, *inter alia*, of 14 sheets of drawings. Petitioners request that the application, including the one (1) sheet of drawings containing Figure 9, be accorded a filing date of 16 November, 2002.

A review of the record reveals that 13 sheets of drawings, containing Figures 1,2, 3A-B, 4, 5, 6A-B, 7A-D, 8A-C, 10, 11A-B, 12A-C, and 13A-B are located among the application papers deposited on 16 November, 2002. However, the evidence is convincing that the application papers deposited on 16 November, 2002, included one (1) sheet of drawing containing Figure 9 as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 9 as described in the specification, is entitled to a filing date of 16 November, 2002.

Petitioners have now supplied a copy of the one (1) sheet of drawings containing Figure 9, and an English translation thereof.

The copy of Figure 9 from the international application, with German text, supplied with the present request for reconsideration, will be construed as the drawing of Figure 9 for filing date purposes.

The copy of Figure 9 with English text supplied with the present petition will be used for processing and examination.

Petitioners' statement that "[a]ttached hereto is an acceptable copy of original drawing sheet 14, containing Figure 9 with German-language legends, and an acceptable copy of drawing sheet 14 submitted on May 8, 2003, containing Figure 9 with the legends translated into English" is be construed as a statement in accordance with 37 CFR 1.52(d) that the copy of Figure 9 is an accurate English translation thereof. Petitioners **must** inform the Office if this is an incorrect interpretation.

The application will be processed and examined using the application papers filed on 16 November, 2002, and the English translation of one (1) sheet of drawings containing Figure 9, supplied with the present petition.

The petition is **granted**. The petition fee of $130.00 will be credited to counsel's deposit account, No. 50-1300, as authorized in the present request for reconsideration

The application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of 16 November, 2002, using the application papers filed on that date and the copy of the English translation of Figure 9 supplied with the present petition, and for an indication in Office records that 14 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703-308-6918.

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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TOWSEND AND TOWSEND AND CREW, LLP
Two Embarcadero Center
Eight Floor
San Francisco, CA. 94111-3834

MAILED

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OFFICE OF PETITIONS

In re Patent No. 6,855,277	:	ON PETITION
Issue Date: February 15, 2005	:	
Application No. 10/298,143	:	
Filed: November 15, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 13, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item 3 above.

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

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

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

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

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

Telephone inquiries should be directed to the undersigned at (703) 571-272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: William Heriot / Martin Baker
42 Digital Dr. #6
Novato, Ca. 94949

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OCT 23 2009

OFFICE OF PETITIONS

In re Patent No. 6,855,277 :
Issue Date: February 15, 2005 :
Application No. 10/298,143 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. 020681-000320US :

This is a decision on the petition under 37 CFR 1.378(b), filed May 29, 2009, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

The above identified patent issued on February 15, 2005. The first maintenance fee could have been timely paid during the period from February 15, 2008 through August 11, 2008, or with a late payment surcharge during the period from August 12, 2008 through February 15, 2009. Petitioner files a petition to accept the unintentionally delayed payment of the maintenance fee on April 13, 2009. The petition was dismissed on May 8, 2009. Petitioner now submits a petition to accept unavoidably delayed payment of maintenance fee.

Petitioner indicates that on February 6, 2007, the assignee (Optime Therapeutics) filed for bankruptcy in the United States Bankruptcy Court, Northern District of California, resulting in all assets being frozen. After petitioner filed a motion in bankruptcy court to get access to the files, the motion was granted on March 31, 2009. Petitioner now submits a petition under 37 CFR 1.378(b).

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

> "A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

37 CFR 1.378(b)(C), requires a showing that the delay in paying the maintenance fee was unavoidable despite reasonable care being taken to ensure that the maintenance fee would be timely paid. The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires *a statement by all persons with direct knowledge of the cause of the delay*, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement. (Emphasis supplied).

As language in 35 U.S.C. § 41(c) (1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. *See Ray v. Lehman*, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting *In re Patent No. 4,409,763*, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *aff 'd sub nom. Rydeen v. Quigg*, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff 'd, 937 F.2d 623 (Fed. Cir. 1991) (table), *cert. denied*, 502 U.S. 1075 (1992)). See MPEP § 711.03(c) for a general discussion of the "unavoidable" delay standard.

Because 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a

reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee's lack of knowledge of the need to pay the maintenance fee does not constitute unavoidable delay. *See Patent No. 4,409,763*, supra. *See also* Final Rule entitled "*Final Rules for Patent Maintenance Fees*," published in the *Federal Register* at 49 Fed. Reg. 34716, 34722-23 (August 31, 1984), and republished in the *Official Gazette* at 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984). Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.

The renewed petition indicates that because of the assignee being in bankruptcy court all assets were frozen and he could not access these funds to pay the maintenance fees. A review of the records indicates that on September 10, 2001, inventors Martin T. Baker and William A. Heriot made an assignment of the instant invention to Optime Therapeutics, Inc. Subsequently, and prior to the issuance of the patent Optime Therapeutics, Inc., made an assignment to William A. Heriot. Hence, at the time the maintenance fees were due, Optime Therapeutics Inc., had no interest in the issued patent. In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonable prudent person. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. The record currently lacks a showing that any steps were put in place by petitioner or anyone else.

As an alternative venue, petitioner should consider a renewed petition under 37 CFR 1.378(c), signed by both inventors accompanied by a request for reconsideration fee under 37 CFR 1.378(e), and the required fee under 37 CFR 1.120(i)(2). The current fees are $400.00 and $1640.00 respectively.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed

in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications are to be mailed. *See* 37 CFR 1.33(a).

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

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

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: William A. Heriot
42 Digital Dr. #6
Novato, CA. 94949

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6855277	2005-02-15	10298143	2002-11-15	020681-000320US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/William A. Heriot/	Date (YYYY-MM-DD)	2009-12-01
Name	William A. Heriot		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6855277
Issue Date: February 15,2005
Application No. 10298143
Filed: November 15,2002
Attorney Docket No. 020681-000320US

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

This is a decision on the electronic petition, filed January 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 4,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

COPY MAILED

AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Tanabe & Cendejas :
Application No. 10/298,146 : DECISION ACCORDING STATUS
Filed: November 15, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 74985 :
For: INTERLOCK SYSTEM FOR SEAT BELT RETRACTOR :

This is in response to the petition under 37 CFR 1.47(a), filed August 1, 2003 (certificate of mailing date May 16, 2003) and supplemented on June 30, 2003 (certificate of mailing date June 27, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Luis Cendejas, cannot be located. Specifically, the petition signed by Attorney Brian S. Clise establishes that Internet searches of a number of databases were fruitless, that the inventor no longer can be reached at his last known address and phone number, and that none of Mr. Cendejas former co-workers could provide any meaningful information as to Mr. Cendejas' whereabouts. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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LUIS CENDEJAS
4114 MEDICAL DRIVE, #3311
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OFFICE OF PETITIONS

In re Application of
Tanabe & Cendejas
Application No. 10/298,146
Filed: November 15, 2002
Attorney Docket No. 74985
For: INTERLOCK SYSTEM FOR SEAT BELT RETRACTOR

LETTER

Dear Mr. Cendejas:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Denise Chapman Weston	: DECISION ON REQUEST FOR
Patent Number	: 7614958	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/298,170	: 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 **884** 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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DURA AUTOMOTIVE SYSTEMS, INC.
2791 RESEARCH DRIVE
ROCHESTER HILLS, MI 48309

COPY MAILED

FEB 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Pascal E. Garrido, et. al.	:	
Application No. 10/298,186	:	ON PETITION
Filed: November 15, 2002	:	
Attorney Docket No. 02-30	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 23, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on March 2, 2005. A Notice of Abandonment was mailed October 25, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Revocation of Power of Attorney with the Statement under 37 CFR § 3.73(b) and Change of Correspondence Address, filed January 23, 2006, have been accepted and made of record.

The application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

Paper No. 7

Brady James Nash
4955 Lindell Rd. Apt. 113
Las Vegas NV 89118

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MAY 27 2004

OFFICE OF PETITIONS

In re Application of :
Brady James Nash :
Application No. 10/298,199 : ON PETITION
Filed: November 18, 2002 :
For: Ant Away :

This is in response to the petition under 37 CFR 1.137(b), filed May 11, 2004, to revive the above-identified application.

The application became abandoned for failure to respond timely to nonfinal Office action of June 27, 2003, which set forth a three (3) month shortened statutory period to reply. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Therefore, the application became abandoned on September 28, 2003. A Notice of Abandonment was mailed on March 8, 2004

The petition to revive will not be treated on it merits. The Office finance records indicate that petitioner submitted a petition fee of $650.00 with the present petition. However, the current fee for filing such a petition is $665.00. Accordingly, petitioner is required to pay the difference of $15.00 before the Office will consider any further petition. The petition is currently dismissed.

The Office notes:

> 35 U.S.C. 41(a)(7) provides that a petition for revival of an unintentionally abandoned application . . . must be accompanied by a petition fee set for in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding abandonment (i.e., it is determined that the application

is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

MPEP 711.03(c)(III)(B).

The Office reminds petitioner that a grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The **required reply**, unless previously filed.

(2) The petition fee as set forth in § 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 as set forth in § 1.20(d))required pursuant to 37 CFR 1.137(c)).

To revive the present application, petitioner must submit the deficient amount of $15.00, a reply to the nonfinal Office action and a renewed petition under 37 CFR 1.137(b). A form for a petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) accompanies this decision.

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

(Effective June 5, 2004 , patent mail delivered by hand or delivery service to the Customer Window should be submitted to:

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: PTO/SB/64
The Privacy Act of 1974

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 14 2004
PATENT & TRADEMARK OFFICE

Paper No. 7

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JUN 17 2004
OFFICE OF PETITIONS

Brady James Nash
4955 Lindell Rd. Apt. 113
Las Vegas NV 89118

COPY MAILED
MAY 27 2004
OFFICE OF PETITIONS

In re Application of :
Brady James Nash :
Application No. 10/298,199 : ON PETITION
Filed: November 18, 2002 :
For: Ant Away :

This is in response to the petition under 37 CFR 1.137(b), filed May 11, 2004, to revive the above-identified application.

The application became abandoned for failure to respond timely to nonfinal Office action of June 27, 2003, which set forth a three (3) month shortened statutory period to reply. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Therefore, the application became abandoned on September 28, 2003. A Notice of Abandonment was mailed on March 8, 2004

The petition to revive will not be treated on it merits. The Office finance records indicate that petitioner submitted a petition fee of $650.00 with the present petition. However, the current fee for filing such a petition is $665.00. Accordingly, petitioner is required to pay the difference of $15.00 before the Office will consider any further petition. The petition is currently dismissed.

The Office notes:

> 35 U.S.C. 41(a)(7) provides that a petition for revival of an unintentionally abandoned application . . . must be accompanied by a petition fee set for in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding abandonment (i.e., it is determined that the application

is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

MPEP 711.03(c)(III)(B).

The Office reminds petitioner that a grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The **required reply**, unless previously filed.

(2) The petition fee as set forth in § 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 as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(c)).

To revive the present application, petitioner must submit the deficient amount of $15.00, a reply to the nonfinal Office action and a renewed petition under 37 CFR 1.137(b). A form for a petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) accompanies this decision.

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

(Effective June 5, 2004 , patent mail delivered by hand or delivery service to the Customer Window should be submitted to:

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: PTO/SB/64
The Privacy Act of 1974

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Brady James Nash
4955 Lindell Rd. Apt. 113
Las Vegas NV 89118

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JUN 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Brady James Nash :
Application No. 10/298,199 : ON PETITION
Filed: November 18, 2002 :
For: Ant Away :

This is in response to the renewed petition under 37 CFR 1.137(b), filed May 11, 2004, to revive the above-identified application.

The petition is **dismissed.**

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

The application became abandoned for failure to respond timely to nonfinal Office action of June 27, 2003, which set forth a three (3) month shortened statutory period to reply. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Therefore, the application became abandoned on September 28, 2003. A Notice of Abandonment was mailed on March 8, 2004

The Office reminds petitioner that a grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The required reply, unless previously filed,

(2) The petition fee as set forth in § 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 as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The present petition does not satisfy requirement (1) above.

This application became abandoned for failure to file a reply to the nonfinal Office action of June 27, 2003, within the period set for response. The **proposed reply** required for consideration of a petition to revive must be an amendment, request for reconsideration or the filing of a continuing application. The Office notes that a review of the official file does not show that any response was filed previously, or with the present petition to revive.

Petitioner must submit a proper reply to the nonfinal Office Action with any renewed petition under 37 CFR 1.137(b). No additional petition fee will be necessary upon filing the renewed petition.

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

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 12

Brady James Nash
4955 Lindell Rd. Apt. 113
Las Vegas NV 89118

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NOV 04 2004

OFFICE OF PETITIONS

In re Application of :
Brady James Nash :
Application No. 10/298,199 : ON PETITION
Filed: November 18, 2002 :
For: Ant Away :

This is in response to the second renewed petition under 37 CFR 1.137(b), filed October 7, 2004, to revive the above-identified application. Petitioner submitted a request for a two-month extension of time. Accordingly, the petition is timely filed.

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)."

The application became abandoned for failure to respond timely to nonfinal Office action of June 27, 2003, which set forth a three (3) month shortened statutory period to reply. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Therefore, the application became abandoned on September 28, 2003. A Notice of Abandonment was mailed on March 8, 2004

The Office reminds petitioner that a grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The required reply, unless previously filed,

(2) The petition fee as set forth in § 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 as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The present petition does not satisfy requirement (1) above.

This application became abandoned for failure to file a reply to the nonfinal Office action of June 27, 2003, within the period set for response. **The proposed reply required for consideration of a petition to revive must be an amendment, request for reconsideration or the filing of a continuing application.** The Office notes that a review of the official file does not show that any response was filed previously, or with the present petition to revive.

Petitioner must submit a proper reply to the nonfinal Office Action with any renewed petition under 37 CFR 1.137(b). No additional petition fee will be necessary upon filing the renewed petition.

If petitioner needs further assistance regarding the filing of a proper reply to the nonfinal Office action, petitioner may wish to contact the Inventors Assistance Center at 1-800-786-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 14

Brady James Nash
4955 Lindell Rd. Apt. 113
Las Vegas NV 89118

RECEIVED
DEC 10 2004
OFFICE OF PETITIONS

In re Application of :
Brady James Nash :
Application No. 10/298,199 : ON PETITION
Filed: November 18, 2002 :
For: Ant Away :

This is in response to the third renewed petition under 37 CFR 1.137(b), filed November 22, 2004, to revive the above-identified application.

The petition is **dismissed.**

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

This application became abandoned for failure to file a reply to the nonfinal Office action of June 27, 2003, within the period set for response. **The proposed reply required for consideration of a petition to revive must be an amendment, request for reconsideration or the filing of a continuing application.** Petitioner has failed to submit any response to the nonfinal Office action with the present petition.

Petitioner IS REQUIRED to submit a proper reply in the form of an amendment or the filing of a continuing application in response to the nonfinal Office Action with any renewed petition under 37 CFR 1.137(b). No additional petition fee will be necessary upon filing the renewed petition.

Petitioner is advised to contact the Inventors Assistance Center at 1-800-786-9199 with regard to filing of a proper reply to the nonfinal Office action. Additionally, petitioner should consider seeking the assistance of a registered patent attorney or agent.

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 (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Brady James Nash
4955 Lindell Rd. Apt. 113
Las Vegas NV 89118

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JAN 11 2005

OFFICE OF PETITIONS

In re Application of :
Brady James Nash :
Application No. 10/298,199 : ON PETITION
Filed: November 18, 2002 :
For: Ant Away :

This is in response to the fourth renewed petition under 37 CFR 1.137(b), filed December 27, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to file a reply to the nonfinal Office action of June 27, 2003, within the period set for response. The application became abandoned on September 28, 2003. A Notice of Abandonment was mailed March 8, 2004.

The matter is being referred to Technology Center Art Unit 1654 for a review of the amendment filed with the present petition.

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

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

W7725.0211O

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OIPE JC73
JUL 12 2005
PATENT AND TRADEMARK OFFICE

Paper No. 8

MAIL

NOV 26 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

In re Application of: ELBWART, et al.
Application Serial No.: 10/298,207
Filed: November 18, 2002
For: ARQ RETRANSMISSION WITH REORDERING SCHEME EMPLOYING MULTIPLE REDUNDANCY VERSIONS AND RECEIVER/TRANSMITTER THEREFOR

DECISION ON PETITION

This is a decision on the petition, filed on October 1, 2003 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.

DOCKETED

By MAM on 12-1-03

Applicant's submissions of October 1, 2003 meet all 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

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

SWERNOFSKY LAW GROUP PC
548 MARKET ST.
SAN FRANCISCO CA 94104

MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Application of
Lawrence Klein
Application No. 10/298,252
Filed: November 15, 2002
Attorney Docket No. 108.1006.01

DECISION ON PETITION

This is a decision on the petition, filed March 11, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of August 28, 2008, which set a three (3) month shortened statutory period for reply. A reply was due on or before November 28, 2008.

Petitioner states that a reply was in fact timely filed. To support petitioner's argument a copy of the reply which includes a certificate of mailing pursuant to 37 CFR 1.8. Petitioner has also provided a copy of the electronic acknowledgement receipt. Petitioner states the reply included an amendment and three-month extension of time.

Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the 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 petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 28, 2008 is hereby withdrawn and the application restored to pending status.

The Office has located the original reply received on March 2, 2009

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

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

This application is being referred to Technology Center AU 3695 for appropriate action in the normal course of business on the reply received with petition.

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: The Swernofsky Law Group
P.O. Box 390013
Mountain View, CA 94039-0013

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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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGARLAND, TX 77478

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NOV 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Matthew Brown et al :
Application No. 10/298,253 : ON PETITION
Filed: November 15, 2002 :
Attorney Docket No. 59.0055 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 22, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). One month (1) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2152 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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In re Application of	:	MAR - 3 2010
BROWN, MATTHEW et al.	:	
Application No.: 10/298,253	:	DECISION ON
Filing or 371(c) Date: November 15, 2002	:	PETITION
Attorney Docket Number: 59.0055	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed February 11, 2010.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed October 6, 2009.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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061505

LANCE G. JOHNSON, ESQ.
ROYLANCE, ABRAMS, BERDO, & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

MAY 31 2006

In re Application of:
HOOVER ET AL.
Serial No.: 10/298,265
Filed: 11 November 2002
Title: OUTDOOR LIGHTING FIXTURE

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, or, in the alternative, to revive the application under 37 CFR 1.137(a) or (b)[1].

The petition to withdraw the holding of abandonment is **DENIED**.

An Office action was mailed May 7, 2004, setting a three-month shortened statutory period for reply. A telephone conference between applicant's representative and the examiner was held on August 10, 2004, in which it was confirmed that the May 7, 2004, Office action was a final Office action. Applicant's response entitled "Amendment After Final Rejection" was mailed on October 6, 2004, including the necessary fee for a two month extension of time. An Office action (Advisory Action) was mailed to petitioner on November 10, 2004. Since the only timely received response was insufficient to place the application in condition for allowance, the application became abandoned upon the expiration of the statutory period on October 8, 2004, as the three-month shortened statutory period was extended by a request for a two-month extension of time.

[1] This decision addresses the petition to withdraw the holding of abandonment only. The Office of the Deputy Commissioner for Patent Examination Policy will address a decision on the alternative petition to revive under 37 C.F.R. § 1.137(a) or (b).

Petitioner asserts that the counsel was not properly notified that the Office action mailed May 7, 2004, was made final. Petitioner submits a copy of that action, which shows both "final" and "non-final" boxes checked, and lacks the language set forth in MPEP 706.07(f).

Petitioner does not claim that petitioner did not actually know that the Office action mailed May 7, 2004, was a final Office action. Petitioner admits of being informed of the finality of the Office action during the telephone conference with the examiner on August 10, 2004, before petitioner submitted a reply. Additionally, petitioner's reply was titled "Amendment after Final Rejection Under 37 C.F.R. § 1.116." While petitioner is correct that 37 C.F.R. § 1.2 requires that business before the Office be transacted in writing, petitioner's reply of October 6, 2004, acknowledging in writing the Final status of the May 7, 2004, Office action, satisfies that requirement. Petitioner's actual knowledge of the finality of the May 7, 2004, Office action confirmed by the use of the 37 C.F.R. § 1.116 as the basis for the reply, indicates that petitioner acquiesced to the finality of the Office action. While petitioner may now disagree with the finality of the Office action, petitioner chose to proceed by filing an amendment under 37 C.F.R. § 1.116 with the mutual understanding that the May 7, 2004 Office action had been made final.

Petitioner further asserts that although petitioner was actually informed of the finality of the May 7, 2004, action in the telephone conference of August 10, 2004, the Office action mailed May 7, 2004, was erroneous for lacking the language set forth in MPEP 706.07(f), and the Office failed to mail a replacement Office action correcting the defect and restarting the period for reply.

First, it is noted that the Office action of May 7, 2004, complies with the requirements of 37 CFR 1.113(a) and (b) for making an Office action final. However, the Office action did not include two sections: one concerning the variable statutory period for reply and the other being a statement establishing that the new grounds of rejection were necessitated by applicant's amendment.

Regarding the variable statutory period for reply to a final Office action, this period is set to advise the applicant that if a reply is filed within two months of the date of the final Office action, the shortened statutory period will expire three months from the date of the final Office action or on the date the Advisory Action is mailed, whichever is later but this period cannot exceed the maximum statutory period of six months. The Office action of May 7, 2004 did not set a variable statutory period for reply but a shortened statutory period of three months. However, since petitioner did not contact the Office to inform the examiner of the inconsistency of the Office action until August 10, 2004, the variable statutory period set when a reply was filed within two months of the Office action was no longer available when petitioner actually filed the reply on October 6, 2004.

Regarding the missing statement that the new grounds of rejection were necessitated by applicant's amendment, It is clear from the record that the final Office action of May 7, 2004 was in response to the claims as amended by the amendment of April 22, 2004. In

the amendment of April 22, 2004, each independent claim was amended to include limitations not previously presented and considered by the examiner. Therefore, the rejections of the claims in the May 7, 2004 were clearly necessitated by the amendment. A statement to this effect merely restates the standard requirements for making a second or subsequent Office action final, and would not have affected petitioner's reply when it was actually filed.

The two above-noted sections missing from the Office action would not have made a material impact on petitioner's prosecution.

Second, defects in an Office action must be promptly brought to the attention of the Office. Defects do not cause a restart of the time period when the Office is notified outside the period for reply. "If the ... defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action." MPEP § 710.06.

The notification of the defect in the Office action on August 10, 2004 (the date petitioner contacted the examiner over the telephone), was outside the three-month shortened statutory period for reply (August 9, 2004). Accordingly, the statutory period could not have been restarted.

Finally, the petition fails for being untimely. 37 C.F.R. § 1.181(f) states in part: "[a]ny 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." Since the Office action from which relief is requested was mailed on May 7, 2004, and the instant petition was not filed until November 19, 2004, petitioner failed to timely seek relief within the two month period set forth in § 1.181(f).

For the above reasons, the petition to withdraw the holding of abandonment is denied.

The application is being referred to the Office of the Assistant Commissioner for Patent Examination Policy, Office of Petitions, for a decision on the alternative petition to revive under 37 C.F.R. § 1.137(a) or § 1.137(b).

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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In re Application of:
HOOVER ET AL.
Serial No.: 10/298,265
Filed: 11 November 2002
Title: OUTDOOR LIGHTING FIXTURE

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, or, in the alternative, to revive the application under 37 CFR 1.137(a) or (b)[1].

The petition to withdraw the holding of abandonment is **DENIED**.

An Office action was mailed May 7, 2004, setting a three-month shortened statutory period for reply. A telephone conference between applicant's representative and the examiner was held on August 10, 2004, in which it was confirmed that the May 7, 2004, Office action was a final Office action. Applicant's response entitled "Amendment After Final Rejection" was mailed on October 6, 2004, including the necessary fee for a two month extension of time. An Office action (Advisory action) was mailed to petitioner on November 10, 2004. Since the only timely received response was insufficient to place the application in condition for allowance, the application became abandoned upon the expiration of the six month statutory period on November 8, 2004 (see MPEP 706.07(f)).

Petitioner asserts that the counsel was not properly notified that the Office action mailed May 7, 2004, was made final. Petitioner submits a copy of that action, which shows both

[1] This decision addresses the petition to withdraw the holding of abandonment only. The Office of the Deputy Commissioner for Patent Examination Policy will address a decision on the alternative petition to revive under 37 C.F.R. § 1.137(a) or (b).

"final" and "non-final" boxes checked, and lacks the language set forth in MPEP 706.07(f).

Petitioner does not claim that petitioner did not actually know that the Office action mailed May 7, 2004, was a final Office action. Petitioner admits of being informed of the action's finality in the telephone conference which occurred on August 10, 2004, before petitioner's reply. Additionally, petitioner's reply was entitled "Amendment after Final Rejection Under 37 C.F.R. § 1.116." While petitioner is correct that 37 CFR § 1.2 requires that business before the Office be transmitted in writing, petitioner's reply of October 6, acknowledging in writing the Final status of the May 7, 2004, Office action, satisfies that requirement.

Petitioner specifically asserts that although petitioner was actually informed of the finality of the May 7, 2004, action in the telephone conference of August 10, 2004, the Office action mailed May 7, 2004, was erroneous by lacking the language set forth in MPEP 706.07(f), and the Office failed to mail a replacement Office action correcting the defect and restarting the period for reply.

Defects in an Office action do not cause a restart of the time period when the Office is notified outside the period for reply. "If the ... defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action." MPEP § 710.06.

Since the notification of the defect in the action (August 10, 2004) was outside the expiration for the shortened statutory period for reply (August 9, 2004), no restart of the time period should have been granted.

Additionally, the Office action complies with the requirements set forth in 37 C.F.R. § 1.113. The sections missing from the Office action would not have made a material impact on petitioner's prosecution.

The first missing section concerned the shortened statutory period for reply. Petitioner was informed on the PTOL-326 accompanying the written action that a three month shortened statutory period was set for reply. Additional language in MPEP § 706.07(f)(A) concerns only the situation in which a reply is filed within two months. Since petitioner contacted the Office only after the three month period had expired, language concerning a more rapid reply would not have affected petitioner's actually filed reply.

The second missing statement concerned the statement that the new grounds of rejection were necessitated by applicant's amendment. This statement merely restates the standard requirements for finality of a second Office action, and would not have affected petitioner's actually filed reply.

Furthermore, 7 C.F.R. § 1.181(f) states in part: "[a]ny 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." Since petitioner received notice of the final status of the May 7, 2004, Office action in the telephone conference dated August 10, 2004, petitioner failed to petition for relief within the two month period set forth in § 1.181(f).

For the above reasons, the petition to withdraw the holding of abandonment is denied.

The application is being referred to the Office of the Assistant Commissioner for Patent Examination Policy, Office of Petitions, for a decision on the alternative petition to revive under 37 C.F.R. § 1.137(a) or § 1.137(b).

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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OFFICE OF PETITIONS

In re Application of

:

Hoover, et al.

:

Application No. 10/298,265

: DECISION ON PETITION

Filed: November 15, 2002

:

Attorney Docket No. PRL-11

This is a decision on the petition under 37 CFR 1.137(a), filed November 19, 2004, and in duplicate on August 23, 2006, to revive the above-identified application. This also a decision on the petition under 37 CFR 1.137(b), filed November 19, 2004, and in duplicate on August 23, 2006, which was filed in the alternative.

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

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

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed May 7, 2004, which set a shortened statutory period for reply of three (3) months. A response was filed on October 6, 2004, which failed to place the application in condition for allowance. An Advisory Action informing applicant of the same was mailed on November 10, 2004. A proper response to the final Office action was not received within the allowed period, and the application became abandoned on October 8, 2004. A Notice of Abandonment was mailed on June 23, 2006.

TREATMENT UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]
The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

Application of the standard to the current facts and circumstances

Petitioner maintains that the abandonment of this application was unavoidable because the examiner assigned to this application did not make a timely determination of whether the amendment after final filed October 6, 2004, placed the application in condition for allowance.

With regard to item (3) above, the aforementioned argument that the above-cited application was unavoidably abandoned has been considered, but does not establish that the abandonment of the application was unavoidable. Applicant ultimately bears the responsibility for filing a proper response to the final Office action before the expiration of the statutory period for reply, notwithstanding the Office's apparent delay in considering the amendment. Certainly, any delay in the Office's consideration of the amendment is regrettable, however; these delays do not relieve petitioner of the responsibility of filing a proper reply to the Final Office action within the allowed statutory period, whether that response be in the form of a Notice of Appeal, amendment and/or a Request for Continued Examination. Further, the delay in filing a proper response to the final Office action cannot be considered unavoidable because petitioner always had the option of filing a Request for Continued Examination or Notice of Appeal to be considered in the alternative if the amendment filed October 6, 2004, failed to place the application in condition for allowance. The petition under 37 CFR 1.137(a), is therefore, dismissed.

Deposit account 18-2220 will be charged $500.00 for the petition fee.

TREAMENT UNDER 37 CFR 1.137(b).

The "Conditional Notice of Appeal", filed November 19, 2004, is noted and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

Deposit account 18-2220 will be charged $500.00 for the Notice of Appeal fee.

Deposit account 18-2220 will be charged $1,500.00 for the petition fee.

The application file is being forwarded to Technology Center 2800, GAU 2875 for further processing.

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[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Boris Leschinsky
P.O. Box 72
Waldwick, NJ 07463

JUN - 4 2003

In re Application of
Ilich Abdurachmanov
Application No.: 10/298,284
Filing Date: November 18, 2002
For: SMALL UNDERWATER GENERATOR WITH SELF-ADJUSTING AXIAL GAP

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed with the application on November 18, 2002 requesting that the above identified application be granted special status under the provisions of 37 C.F.R. § 1.102(c) and MPEP § 708.02 IV.

The petition is GRANTED.

The provisions of MPEP § 708.02 IV state that an "application may be made special upon filing a petition including any evidence that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement."

The present petition was accompanied by an affidavit from applicant Ilich Abdurachmanov stating that he is more than 65 years of age. The affidavit constitutes sufficient evidence as set forth in MPEP § 708.02 IV.

This application is being forwarded to the examiner for examination out of turn under the provisions of MPEP § 708.01.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

1[redacted]98284.111802

IN THE [redacted]TED STATES PATENT AND TRA[redacted]MARK OFFICE

Applicant(s): Abdurachmanov	
Serial No.:	Group Art Unit:
Filed:	Examiner:
Title: SMALL UNDERWATER GENERATOR WITH SELF-ADJUSTING AXIAL GAP	
Attorney Docket No.: IA-2	

AFFIDAVIT AS TO APPLICANT'S AGE UNDER 37 C.F.R. 1.102(c)

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, Ilich Abdurachmanov, hereby depose and say:
THAT I am over the age of sixty-five years;
THAT the above fact, to the best of my knowledge, is true, and that I understand that any false statements or the like are punishable by fine or imprisonment, or both, under 18 USC 1001 and may jeopardize the validity of this application or any patent issuing therefrom.

Signed this 31ST day of OCTOBER, 2002.

Ilich Abdurachmanov

STATE OF NEW YORK)
)
COUNTY OF QUEENS)

JOSEPH LICARI
Notary Public, State of New York
No. 41-4810569
Qualified in Queens County
Commission Expires 7/04

Subscribed and sworn to, before me, by , this 31ST day of OCTOBER, 2002.

Notary Public
My Commission Expires JULY 8 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Abdurachmanov Serial No.: Filed: Title: SMALL UNDERWATER GENERATOR WITH SELF-ADJUSTING AXIAL GAP Attorney Docket No.: IA-2	Group Art Unit: Examiner:

JC973 U.S. PTO
10/298284
11/18/02

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102(c)

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is a Petition to Make Special the above-identified patent application. The basis for this petition is that the Applicant is over sixty-five years of age.

In accordance with MPEP 708.02 IV, an affidavit by Applicant, showing Applicant's age to be over sixty-five years, is attached hereto.

In view of the above, Applicant requests that the Petition to Make Special be granted and the examination of the application be advanced.

Respectfully Submitted,

Boris Leschinsky
Patent Agent

Boris Leschinsky
Patent Agent
P.O.Box 72
Waldwick, NJ 07463
Tel. 201-262-0051

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OFFICE OF PETITIONS

In re Application of
Graham David Barrett
Application No. 10/298,309
Attorney Docket No. BAR-003CON

This is a decision on the petition under 37 CFR 1.55(c) filed June 23, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Australian provisional application PQ7652, filed May 19, 2000. As per petitioner's request for waiver of the surcharge associated with the petition under 37 CFR 1.55(c), this petition will also be treated as petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.55(c)(2) that requires payment of a surcharge.

The petition under 37 CFR 1.55(c) is **granted**.

The petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.55(c)(2) is **dismissed**.

TREATMENT 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 in the date claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.), and

(4) the above-identified nonprovisional application must be filed with 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified nonprovisional application was filed on November 14, 2002, which is after November 29, 2000. Intermediate application PCT/AU01/00578 was filed within twelve months of Australian provisional application PQ7652, which was filed on May 19, 2000 (the filing date of the foreign application to which benefit is now being claimed.) On June 23, 2004, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by the application number, country, and filing date. The required surcharge of $1330.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted.**

TREATMENT UNDER 37 CFR 1.183 TO WAIVE THE REQUIREMENTS OF 37 CFR 1.55(c)(2)

Petitioner requests, under 37 CFR 1.183, waiver of the applicable surcharge under 37 CFR 1.55(c)(2) for the acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Australian provisional application PQ7652, filed May 19, 2000. In this regard, petitioner states that the above-cited application is a continuation of PCT/AU01/00578, which itself explicitly claimed the priority of the Australian provisional application PQ7652. Accordingly, petitioner maintains that the claim to the Australian provisional application is of record in the subject application 10/298,309. Petitioner further states that the delay in claiming priority did not result in substantial delay to the publication of the subject application.

In order to grant any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. The failure to timely submit the claim for benefit of the filing date of the foreign application within the time period set forth in 37 CFR 1.55 was a circumstance entirely within petitioner's control, and could have been avoided by exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472 (Fed. Cir. 1983). Furthermore, since the USPTO did not cause or contribute to petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief. See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

It is further noted that petitioner appears to confuse the publication of an application pursuant to 35 U.S.C. § 122(b), with the surcharge authorized by 35 U.S.C. § 119(a)-(d) that petitioner triggered solely by his own delay in submission of the priority claim in question. There is no causal relationship between the publication date of this or any application and the imposition of the surcharge in question. Petitioner

overlooks the fact that the failure to timely claim the benefit of an earlier filed application under 35 U.S.C. § 119(a)-(d) constituted a waiver of his right to claim such a benefit of the priority. See 35 U.S.C. § 199(a)(2). ("The Director may consider of the failure of the applicant to file a timely claim for priority as a waiver of any such claim.") Petitioner may now seek reinstatement of his unintentionally waived right, subject, however, to payment of the very surcharge from which petitioner now seeks relief. As petitioner has failed to comply with the provisions of 37 CFR 1.55, this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

As authorized, deposit account 06-1075 will be charged $130.00 for the instant petition fee.

The application is being forwarded to Technology Center 3700, GAU 3738, for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this decision may directed to Kenya A. McLaughlin, Petition Attorney, at (571)272-3222.

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

Mail Date: 04/21/2010

Applicant	: Scott D. Freedman	: DECISION ON REQUEST FOR
Patent Number	: 7647240	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/298,316	: 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 **1623** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6886833	2005-05-03	10298318	2002-11-18	SSIZ 2 00002

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven Haas/	Date (YYYY-MM-DD)	2009-06-22
Name	Steven Haas	Registration Number	37841

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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United States Patent and Trademark Office
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In re Patent No. 6886833
Issue Date: May 3,2005
Application No. 10298318
Filed: November 18,2002
Attorney Docket No. SSIZ 2 00002

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

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

The petition is **GRANTED**.

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

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

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LARSON NEWMAN ABEL POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

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MAR 3 1 2008

In re Application of :

MANAS-ZLOCZOWER, Iani et al. :
Application No. 10/298,322 : DECISION ON PETITION
Filed: November 18, 2002 : TO WITHDRAW
Attorney Docket No. **1070-02SYN409** : 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, 2008.

The request is **APPROVED**.

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

The request was signed by John R. Schell on behalf of all attorneys of record who are associated with customer No. 34456. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to respond to the Office action mailed September 06, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **IANI MANAS-ZLOCZOWER**
275 JACKSON DRIVE
ORANGE, OH 44022

cc: **MS. SONU WEAVER**
EATON CORPORATION
26201 NORTHWESTERN HWY
SOUTHFIELD, MI 48076-3926

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OCT 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20045-9998

In re Application of :
James L. Richards, et al. :
Application No. 10/298,334 :
Filed: November 18, 2002 :
For: **SYSTEM AND METHOD FOR PERSON OR OBJECT POSITION LOCATION UTILIZING IMPULSE RADIO** :

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the "Petition to Withdraw Notice of Abandonment under 37 CFR 1.181(a)" filed June 10, 2004. No fee is required.

The petition is **DENIED.**

This application was held abandoned for failure to timely submit a response to the non-final Office action mailed August 29, 2003. A Notice of Abandonment was mailed May 4, 2004.

Petitioner has alleged non-receipt of the non-final Office action mailed Ausgust 29, 2003. In the petition, the petitioner has provided a statement that the Office communication was not received by the petitioner and a copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

Pursuant to MPEP § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

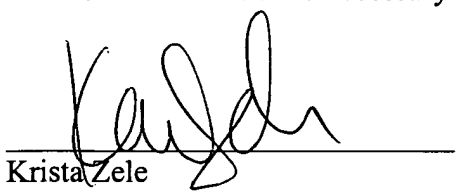
(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and,

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In accordance with requirements (a) and (c) above, Petitioner states that the Office action was not received and also references a docket history record provided with their petition. However, the petition does not comply with requirement (b) set forth above, inasmuch as the petition lacks the necessary statement from the Practitioner attesting to a search of the file jacket indicating that the Office communication was not received.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include the necessary statement from the Practitioner as outlined above.



Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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WASHINGTON DC 20045-9998

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SEP 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Richards et al.	:	DECISION ON PETITION TO
Application No. 10/298,334	:	WITHDRAW HOLDING OF
Filed: 18 November, 2002	:	ABANDONMENT
Atty Docket No. 28549-188701	:	

This is a decision on the renewed petition filed on 14 November, 2005, to withdraw the holding of abandonment in the above-identified application.

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

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 29 August, 2003, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 3 May, 2004. The petition filed on 10 June, 2004, was dismissed on 26 October, 2005

Petitioners assert that the non-final Office action mailed on 29 August, 2003, was never received.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting

to the fact that a search of the file jacket and docket records indicates that the Office 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 showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioners at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioners have submitted, with the present renewed petition, a statement by the practitioner that the file jacket was searched, indicating a lack of receipt of the Office communication. Additionally, the initial petition stated that a search of the docket report showed that the Office action had not been received. A copy of petitioners' docket record has been included with the initial petition and referenced in both petitions.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center 2600 technical support staff for remailing of the Office action mailed on 29 August, 2003. The period for reply will be reset from the mailing date thereof.

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
WASHINGTON, D.C. 20231
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Paper No. 5

John W. Caldwell
WOODCOCK WASHBURN LLP
46th Floor
One Liberty Place
Philadelphia, PA 19103

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MAR 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Dobie :
Application No. 10/298,354 : DECISION GRANTING
Filed: November 16, 2002 : PETITION
Attorney Docket No. HTS-0054 :

This is a decision on the petition filed January 29, 2003, to establish that pages 52, 60, 63, and 74 were part of the originally filed application.

The petition is **granted**.

On November 16, 2002, the application was filed.

On December 24, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 16, 2002, and advising petitioner that pages 52, 60, 63, and 74 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that the missing pages were deposited on November 16, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 74 pages of specification on November 16, 2002.[1] Petitioner has also submitted a copy of the missing documentation.

A review of the file wrapper indicates the file includes two copies of the application. The original copy of the application includes pages 52, 60, 63, and 74. The pages of the original are "wrinkled" but are very legible. The record indicates that either:
(1) petitioner filed two copies of the application, or
(2) the Patent and Trademark Office photocopied the pages of the original application because they were "wrinkled" and used the copy for processing purposes.

Whether (1) or (2) occurred, the record clearly indicates that pages 52, 60, 63, and 74 were filed on November 16, 2002.

---

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

The petition fee will be credited to deposit account no. 23-3050.

The Notice mailed December 24, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 16, 2002, using the application papers filed on November 16, 2002, and the copy of pages 52, 60, 63, and 74 filed on January 29, 2003.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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IBM CORPORATION
T.J. WATSON RESEACH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

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OFFICE OF PETITIONS

In re Application of	:	
David F. Bantz et at	:	
Application No. 10/298,355	:	DECISION ON PETITION
Filed: November 18, 2002	:	
Attorney Docket No. YOR920020245US1	:	

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

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 22, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 23, 2005.

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

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 23, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Erie W. Petraske was counsel of record at the time of abandonment, Erie W. Petraske should explain why this application became abandoned while it was under their control and what efforts he made to further reply of itself and with whom this matter was discussed outside of Erie W. Petraske. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Erie W. Petraske and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record. clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

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

Any renewed petition may be addressed as follows:

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

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building

401 Dulany Street
Alexandria, VA 22314

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Ido Tuchman
Law Office of Ido Tuchman
82-70 Beverly Road
Kew Gardens, NY 11415

UNITED STATES 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	
John R. Daniels et al.	
Serial No.: 10/298,378	PETITION TO MAKE SPECIAL
Filed: November 15, 2002	
Attorney Docket No.: 38931.8002	

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

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PROCOPIO CORY HARGREAVES & SAVITCH
530 B STREET, SUITE 2100
SAN DIEGO, CA 92101

COPY MAILED

APR 14 2004

OFFICE OF PETITIONS

In re Application of :
David Naghi et al :
Application No. 10/298,384 : NOTICE
Filed: November 18, 2002 :
Attorney Docket No. 109821-53 :

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

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

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

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

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 30 2009

OFFICE OF PETITIONS

Ben Aaron Berman
160 East 93rd Street
New York, NY 10128

In re Patent of	:	
James Berman and Ben Aaron Berman	:	
Patent No. 6,735,825	:	
Issue Date: May 18, 2004	:	Letter
Application No. 10/298,411	:	
Filing Date: November 18, 2002	:	
For: Secured Pen and Holder	:	

This letter is in response to a petition under 37 CFR 1.378(b) filed January 27, 2009, requesting the Office accept the delayed payment of a maintenance fee for the above-identified patent.

Facts

The patent issued May 18, 2004.

The inventors of record are James Berman and Ben Berman. James Berman is the father of Ben Berman.

The petition states James Berman was always responsible for financial matters. The Office interprets this statement as an assertion Ben Berman was relying on James Berman to ensure maintenance fees would be timely paid for the instant patent.

On an unspecified date, James Berman began experiencing signs of Alzheimer's. During a period of time between unspecified dates, James Berman hid the fact he was suffering from Alzheimer's from his family. On unspecified dates, James Berman failed to pay bills and had difficulty maintaining files. On an unspecified date, Ben Berman learned James Berman was suffering as a result of Alzheimer's.

The 3.5 year maintenance fee could have been paid between May 18, 2007, through November 19, 2007, or with a surcharge during the period from November 20, 2007, to May 19, 2008. The fee was not timely paid. Accordingly, the patent expired on May 20, 2008.

On an unspecified date, Ben Berman learned the maintenance fee had not been paid for the instant patent.

The instant petition was filed January 27, 2009 (Certificate of Mailing Date of January 24, 2009).

The petition was accompanied by a payment of $1,165.

The petition is only signed by Ben Berman.

Discussion

The merits of the petition will not be considered because petitioner has failed to pay the full amount of the maintenance fee. The amount due for a fee is determined at the time the fee is paid in full. As of January 27, 2009, the amount required for the 3.5 year maintenance fee for a small entity was $490. Petitioner only submitted $465. Therefore, petitioner must submit an additional $25.

The petition is not signed by all of the inventors, a registered patent attorney, a registered patent agency, or an assignee of record. Therefore, the merits of the petition will not be considered at this time.

The Office requests petitioner submit a petition properly signed by both inventors. If James Berman is unable to sign the petition, the petition should be signed on his behalf by a person with the legal authority to sign the petition on his behalf.

The properly signed petition may take the form of a copy of the previously filed petition with the signature and printed name of James Berman added by hand.

Petitioner should submit $25 and a properly signed petition within **TWO MONTHS** of the mailing date of this letter. Extensions of time may not be obtained. The failure to file a reply to the instant request will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

FEB 17 2010

OFFICE OF PETITIONS

Ben Aaron Berman
160 East 93rd Street
New York, NY 10128

In re Patent of :
James Berman and Ben Aaron Berman :
Patent No. 6,735,825 :
Issue Date: May 18, 2004 : Decision
Application No. 10/298,411 :
Filing Date: November 18, 2002 :
For: Secured Pen and Holder :

This letter is in response to a petition under 37 CFR 1.378(b) filed January 4, 2010, requesting the Office accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

Facts

The patent issued May 18, 2004.

The inventors of record are James Berman and Ben Berman. James Berman is the father of Ben Berman.

James Berman was responsible for financial matters involving the patent.

On an unspecified date, James Berman began experiencing signs of Alzheimer's. During a period of time between unspecified dates, James Berman hid the fact he was suffering from Alzheimer's from his wife and other members of his family. On unspecified dates, James Berman failed to pay bills and had difficulty maintaining files.

On an unspecified date, Ben Berman learned James Berman was suffering as a result of Alzheimer's.

The 3.5 year maintenance fee could have been paid between May 18, 2007, through November 19, 2007, or with a surcharge during the period from November 20, 2007, to May 19, 2008. The fee was not timely paid. Accordingly, the patent expired on May 20, 2008.

On an unspecified date, Ben Berman learned the maintenance fee had not been paid for the instant patent.

A petition under 37 CFR 1.378(b) was filed January 27, 2009 (Certificate of Mailing Date of January 24, 2009). The petition was accompanied by a payment of $1,165. The petition was only signed by Ben Berman.

On April 30, 2009, the Office mailed a letter stating,

> The merits of the petition will not be considered because petitioner has failed to pay the full amount of the maintenance fee. The amount due for a fee is determined at the time the fee is paid in full. As of January 27, 2009, the amount required for the 3.5 year maintenance fee for a small entity was $490. Petitioner only submitted $465. Therefore, petitioner must submit an additional $25.
>
> The petition is not signed by all of the inventors, a registered patent attorney, a registered patent agency, or an assignee of record. Therefore, the merits of the petition will not be considered at this time.
>
> The Office requests petitioner submit a petition properly signed by both inventors. If James Berman is unable to sign the petition, the petition should be signed on his behalf by a person with the legal authority to sign the petition on his behalf.
>
> The properly signed petition may take the form of a copy of the previously filed petition with the signature and printed name of James Berman added by hand.
>
> Petitioner should submit $25 and a properly signed petition within **TWO MONTHS** of the mailing date of this letter. Extensions of time may not be obtained. The failure to file a reply to the instant request will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter.

On June 22, 2009, the Office received payment of $25.

Office records do not include a copy of any documents received on June 22, 2009. However, petitioner states a copy of a letter was filed with the payment of $25 and has supplied a copy of the letter. The copy of the letter supplied by petitioner states,

> In response to your letter date April 30, 2009, I have included within this mailing a properly signed petition and additional maintenance fee of $25.00. If there is anything further I may provide, please contact me at your convenience.

The June 22, 2009 letter was only signed by Ben Berman.

In view of the payment of $25, as of June 22, 2009, the Office had in its possession $490 for the maintenance fee and $700 for the surcharge for a petition under 37 CFR 1.378(b).

On January 4, 2010, after a telephone call between Ben Berman and Petitions Attorney Steven Brantley on December 31, 2009, petitioner supplied a new copy of the letter and a petition form signed by both inventors. The petition form is labeled, "Petition to Accept Unintentionally

Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))." Although the form was labeled as a petition under 37 CFR 1.378(c), the form was not accompanied by payment of $940 ($1,640 reduced by $700) for the remainder of the $1,640 surcharge required for a petition under 37 CFR 1.378(b).

During January 2010, Petitions Attorney Steven Brantley left a telephone message with Ben Berman concerning the following facts:

(1) The original petition was clearly filed under 37 CFR 1.378(b);
(2) Petitioner had supplied the fees required for a petition under 37 CFR 1.378(b), but not for a petition under 37 CFR 1.378(c); and
(3) The form filed January 4, 2010, was a form to be used when filing petitions under 37 CFR 1.378(c).

The January 2010 telephone message requested Ben Berman contact Petitions Attorney Steven Brantley and indicate whether petitioner wished for the January 4, 2010 papers to be treated as a petition under 37 CFR 1.378(b) or a petition under 37 CFR 1.378(c). During January 2010, Ben Berman left a voicemail with Petitions Attorney Steven Brantley indicating Mr. Berman wished for the January 4, 2010 papers to be treated as a petition under 37 CFR 1.378(b). During a telephone call between Ben Berman and Petitions Attorney Steven Brantley on February 16, 2009, Ben Berman confirmed his intent for the January 4, 2010 papers to be treated as a petition under 37 CFR 1.378(b).

The Law

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Director that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. In order for a party to show unavoidable delay, the party must show "reasonable care was taken to ensure that the maintenance fee would be promptly paid."[1] The level of "reasonable care" required to be shown is the same as the level of "care or diligence ... generally used and observed by prudent and careful men in relation to their most important business."[2] When determining if a period of delay has been shown to have been unavoidable, the Office will take "all facts and circumstances into account" and will decide each petition "on a case-by-case basis."[3]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. 35 U.S.C. 41(c)(1) states, with emphasis added, "The Director may accept the payment of any maintenance fee . . . after the six month grace period if the delay is *shown to the satisfaction of*

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[1] 37 CFR 1.378(b).

[2] *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). *See also Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

[3] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982).

the Director to have been unavoidable." The decision will be based solely on the written, administrative record in existence. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

The Office and Congress have recognized the unavoidable standard can be very difficult to meet. During 1992, Congress considered the difficulty involved in reinstating a patent under the unavoidable. Congressional representatives described the unavoidable standard as inflexible, extremely hard to meet, too stringent and harsh.[4] Congress did NOT take steps to make the unavoidable standard more flexible, easier too meet, less stringent, or less harsh. Instead, Congress determined that it would allow patent owners the ability to reinstate a patent under an "unintentional" standard as long as the petition was filed within 24 months of the expiration of the patent. Congress chose to continue requiring proof of unavoidable delay for petitions filed after the 24 month time period.

Opinion

The evidence of record is insufficient to prove the entire delay in payment of the maintenance fee was unavoidable.

The January 27, 2009 petition stated James Berman was responsible for financial matters. Therefore, the Office must determine if the record proves James Berman exercised the level of "care or diligence ... generally used and observed by prudent and careful men in relation to their most important business."[5]

A reasonable and prudent person would take reasonable and reliable steps *to schedule* and pay maintenance fees for a patent or obligate another party to take such steps.[6] A reasonable and prudent person, aware of the existence of maintenance fees, would not rely on memory, especially if he or she was already showing some signs of memory loss due to a disease or other reasons, to remind him or her when payments would fall due several years in the future. Instead, such a person would implement a reliable and trustworthy tracking system to keep track of the relevant dates.[7] 37 CFR 1.378(b) explicitly requires a petition include a showing that "enumerate[s] the steps to taken to ensure timely payment of the maintenance fee."

---

[4] "[The unavoidable] standard has been found to be extremely hard to meet. Some patent owners have lost their patent rights due to this inflexible standard." 138 CONG. REC. S16613, 16614 (September 30, 1992) (Rep. DeConcini) (emphasis added). "The unavoidable standard has proved to be too stringent in many cases." 138 CONG. REC. H1115 (October 3, 1992) (Rep. Hughes) (emphasis added). "The unavoidable standard is 'too stringent. Some patent owners have lost their patent rights due to circumstances that do not warrant this harsh result, but that could not be considered 'unavoidable' under current law.'" 138 CONG. REC. E1688 (June 4, 1992) (extension of remarks of Rep. McCollum) (emphasis added).

[5] See footnote 2.

[6] *See California Med. Products, Inc. v. Tecnol Med. Products, Inc.*, 921 F. Supp. 1219, 1259 (D. Del. 1995).

[7] Per 37 CFR 1.378(b)(3), a late maintenance fee will not be accepted unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. In *Ray v. Lehman*, 55 F.3d 606, 609; 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995), petitioner had no steps in place to timely pay the maintenance fee. The petitioner argued that the PTO's regulations requiring such steps created to heavy a burden. The court stated, "Ray also takes issue with the

In this case, the record fails to indicate James Berman took any steps or had any system in place to ensure the maintenance fee would be timely paid. The petition fails to indicate the date James Berman first began experiencing memory loss or other intellectual difficulties and the petition fails to establish, via a statement by a doctor or other evidence, the extent to which Alzheimer's disease impacted James Berman's ability to take steps to ensure maintenance fees would be timely paid. In other words, the petition fails to prove Alzheimer's disease prevented James Berman from taking steps to ensure maintenance fees would be timely paid.

In order for the petition to be granted, petitioner would need to prove James Berman exercised the same level of care or diligence used by prudent individuals in relation to their *most important business*. Petitioner indicates James Berman hid his condition from his family instead of seeking their assistance in handling financial matters. Petitioner has failed to prove a prudent person treating the patent the same as he would treat his most important business, would have hidden a disease that impacted his ability to pay maintenance fees for the patent from his family.

An adequate showing under 37 CFR 1.378(b) must demonstrate the entire delay in payment of the maintenance fee was unavoidable. In this case, petitioner has not indicated the date Ben Berman first learned his father, James Berman, was suffering from Alzheimer's disease that might affect his father's ability to ensure maintenance fees were timely paid for the patent. The petition also does not identify the specific date Ben Berman first learned the maintenance fee had not been paid for the instant patent. As a result of the lack of information, the Office is unable to determine how promptly Ben Berman inquired into the matter upon learning his father's ability to ensure maintenance fees were timely paid for the patent had been adversely affected by Alzheimer's disease.

Unfortunately, the evidence of record is insufficient to prove the entire delay in payment of the maintenance fee was unavoidable. Therefore, the petition cannot be granted.

The facts in this case raise the issue of the exact date a letter was first filed in response to the Office's April 30, 2009 letter. However, the Office need not address the issue at this time because, regardless of the date a letter was first filed, the instant petition can not be granted.

Petitioner's current options:

I. Petitioner may file a request for reconsideration.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Any petition for reconsideration of this decision must be accompanied by a non-refundable petition fee of $400 as set forth in 37 CFR 1.17. Extensions of time under 37

PTO's regulation . . . arguing that it 'creates a burden that goes well beyond what is reasonably prudent.' We disagree. The PTO's regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these as requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." *Id.*

CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.378(b)."

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may wish to file a petition under 37 CFR 1.378(c).

Petitioner may wish to consider filing a petition to reinstate the patent based on unintentional expiration under 37 CFR 1.378(c). The surcharge for an unintentional petition under 37 CFR 1.378(c) is $1,640. Therefore, if a petition under 37 CFR 1.378(c) is filed, it must be accompanied by a payment of $940. In general, a petition under 37 CFR 1.378(c) needs to simply state that expiration of the patent was "unintentional," whereas a petition under 37 CFR 1.378(b) must prove that the entire delay in payment was "unavoidable."

A blank petition under 37 CFR 1.378(c) form is enclosed for petitioner's convenience. A PDF "fillable" version of the form can be found at: http://www.uspto.gov/web/forms/sb0066.pdf

III. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Since the petition is dismissed, petitioner may request a refund of the maintenance fee and surcharge. Petitioner is reminded that if a request for reconsideration is later filed along with the $400 fee, the $400 will not be refunded. A request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

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APR 2 7 2005

OFFICE OF PETITIONS

In re Patent of :
Andreas Warloe :
Patent No. 6,825,802 :
Issued: November 30, 2004 :
For: AVOIDING INTERFERENCE TO A GPS RECEIVER FROM WIRELESS TRANSMISSIONS BY TIME MULTIPLEXING GPS RECEPTION :

ON PETITION

This is a decision on the Petition Under 37 CFR 1.183, filed February 9, 2005, requesting waiver of 37 CFR 3.81(a), to correct the name of the assignee in the above-identified patent.

The Petition is **granted**.

Petitioner is advised that the fee for a petition under 37 CFR 1.183 has increased to $400. An additional $270.00 has been charged to Petitioner's deposit account as authorized in the instant petition.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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

Derek L. Woods
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
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/298,416	11/18/2002	3743	880	32743	5	32	5

CONFIRMATION NO. 3540

PEARSON & PEARSON
10 George Street
Lowell, MA 01852

CORRECTED FILING RECEIPT

OC000000012714830

Date Mailed: 05/19/2004

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

Applicant(s)

Richard S. DeBenedetto, Danville, NH;
Thomas F. Johnson, Salem, NH;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/20/2002

Projected Publication Date: 05/20/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Hidden heat strip for roofs

Preliminary Class

219

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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RANKIN HILL PORTER & CLARK LLP
925 EUCLID AVENUE, SUITE 700
CLEVELAND, OHIO 44115-1405

COPY MAILED

MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Jeffrey Alan Wilson et al :
Application No. 10/298,453 : NOTICE OF ISSUANCE OF
Filed: November 18, 2002 : ERRATUM VACATING
Attorney Docket No. WLS 14327 : PATENT GRANT

The purpose of this notice is to advise you that the above-identified application was mistakenly indicated to have been granted as U.S. Patent No. 6,852,121 on February 8, 2005.

The record discloses the following:

- A Notice of Allowance and Issue Fee Due was mailed on October 18, 2004 requiring submission of the issue fee on or before January 18, 2005.

- The issue fee payment was timely received on November 26, 2004.

- On December 2, 2004, the Director of Technology Center 3700/2900 withdrew the application from issue under 37 CFR 1.313(b), stating unpatentability of one or more claims as the reason therefor.

- Subsequent to the mailing of the December 2, 2004 notice withdrawing the application from issue, a patent number of 6,852,121 and an issue date of February 8, 2005, were assigned to the application as a result of the payment of the issue fee on November 26, 2004.

The Group Director has been delegated the authority to withdraw an application from issue, including subsequent to payment of the issue fee. MPEP 1002.02(c), ¶ 18. Thus, this application was properly withdrawn from issue prior to the scheduled issue date of February 8, 2005 by a duly authorized official at the USPTO. Accordingly, a patent did not issue to this application on February 8, 2005. See Harley v. Lehman, 981 F.Supp. 9, 11-12 .2, 44 USPQ2d 1699, 1701-02 .n2 (D.D.C. 1997) and Black Light Power, Inc. v. Rogan, 63 USPQ2d 1534 (CA FC 2002).

In view of the above, the USPTO's publication on February 8, 2005 of a patent document, purporting to be a patent, was in error. Accordingly, the following erratum will be published in the Official Gazette:

> All reference to Patent No. 6,852,121 to Jeffrey Alan Wilson et al of Ohio for THERMAL TREATMENT PACK appearing in the Official Gazette of February 8, 2005 should be deleted since no patent was granted.

This matter is being referred to Technology Center AU 3739 for further action as the nature of the case requires.

Any questions concerning this matter may be directed to Frances Hicks at (571) 272-3218.

Charles Pearson
Director
Office of Petitions

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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MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

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SEP 22 2008
OFFICE OF PETITIONS

In re Application of	:	
Jerome R. SALANDRO	:	
Application No. 10/298,457	:	DECISION ON PETITION
Filed: November 18, 2002	:	
Docket No 045045-5001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 11, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) the required statement of unintentional delay.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on July 16, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account 50-0310.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received July 16, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

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JUL 16 2008

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 045045-5001

First named inventor: Jerome SALANDRO

Application No.: 10/298,457 Art Unit: 2621

Filed: November 18, 2002 Examiner: G. Wendmagegn

Title: VIDEO INFORMATION ANALYZER

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

☑ Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment Under 37 CFR 1.111 (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.

07/17/2008 HAARZI1 00000013 500310 10298457
01 FC:2453 770.00 DA

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

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	7/16/08 Date
Alison B. Weisberg Typed or printed name	45,208 Registration Number, if applicable
Morgan Lewis & Bocklus, LLP Address	215.963.5091 Telephone Number
1701 Market Street, Philadelphia, PA 19103 Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

7/16/08
Date

Signature

Alison Weisberg
Typed or printed name of person signing certificate

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JUL 16 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Salandro	:
		: Attorney Docket No. 045045-5001
Serial No.	10/298,457	:
Filed:	November 18, 2002	:
For:	Video Information Analyzer	:

PETITION FOR THREE-MONTH EXTENSION OF TIME AND FEE TRANSMITTAL

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

Sir:

Applicant hereby petitions the Commissioner pursuant to 37 C.F.R. §1.136(a) to extend the time for response to the Office Action mailed January 11, 2007, having a three-month period for response expiring April 11, 2007, by three months to and including July 11, 2007.

The Commissioner is hereby authorized to charge any fees required in connection with this Petition to Deposit Account No. 50-0310.

Respectfully submitted,

Alison B. Weisberg
Registration No. 45,206
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103-2921
215-963-5091

Dated: July 16, 2008

07/17/2008 HMARZI1 00000013 500310 10298457
02 FC:2253 525.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

MILTON S. GERSTEIN
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

MAIL

MAR 1 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Daniel GIACOPELLI, et al. :
Application No. 10/298,479 :
Filed: November 18, 2002 :
For: **METHOD AND APPARATUS FOR IMPROVING PREMISES-LINE CALL AVAILABILITY IN AN ALARM SYSTEM** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 11, 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 lacks a copy of each of the references most closely related to the subject matter encompassed by the claims, item (5).

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

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required.

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

The application is being forwarded to the group Central File and will await action in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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

MILTON S. GERSTEIN
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

MAIL

AUG 2 6 2004

DIRECTOR OF CE
TECHNOLOGY CENTER 2600

In re Application of :
Daniel GIACOPELLI, et al. :
Application No. 10/298,479 :
Filed: November 18, 2002 :
For: **METHOD AND APPARATUS FOR IMPROVING PREMISES-LINE CALL AVAILABILITY IN AN ALARM SYSTEM** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 1, 2004 under Manual of Patent Examination Procedure §708.02, VIII supplementing the petition originally filed august 11, 2003 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 supplemental petition includes a copy of each reference indicated by petitioner to be most closely related to the subject matter encompassed by the claims, thus meeting the requirement of item (5) above. Petitioner also has provided evidence that an Information Disclosure Statement was originally submitted on April 7, 2003.

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

The application file is being forwarded to the Technology Center's technical support staff for entry of the Information Disclosure Statement. From there the file will be forwarded to the examiner for expedited examination.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/3/08

Paper No.: —

TO SPE OF : ART UNIT 2643

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/298479 Patent No: 6973165 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: _____

/CURTIS KUNTZ/ — **SPE**

2614 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
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AUG 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Luo, Hui	:	
Application No. 10/298,485	:	ON PETITION
Filed: November 18, 2002	:	
Attorney Docket No. 2001-0539	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center 2617 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

cc: TIMOTHY LUBECKI
CANAVAN & MONKA, LLC
62 GROVE STREET
SOMERVILLE, NJ 08876

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ANTHONY MIELE
PALMER & DODGE, LLP
111 HUNTINGTON AVENUE
BOSTON MA 02199

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DEC 23 2003

OFFICE OF PETITIONS

In re Application of	:DECISION GRANTING PETITION
John M. Baust et al	:UNDER 37 CFR 1.137(b) AND
Application No. 10/298,497	:NOTICE RESETTING PERIOD FOR
Filed: November 18, 2002	:REPLY TO NONFINAL OFFICE
Attorney Docket No. 2475/2072	:ACTION

This is a decision on the petition, filed November 12, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 2, 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 USPTO of the filing of a counterpart application in a foreign country or under a multinational treaty that requires publication of applications eighteen 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 Office 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.

There is no indication that a reply to the Non-Final Office action of November 12, 2003 has been filed. Accordingly, a shortened statutory period of THIRTY(30)DAYS for reply to the Non-Final Office action of November 12, 2003 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

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

This application is being forwarded to Technology Center Art Unit 1651 to await a reply to the Non-Final Office Action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

Karen Creasy

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

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United States Patent and Trademark Office
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Director's Office
Group 3700

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Paper No. 9

In re Application of
SCHULAK ET AL.
Appl No.: 10/298,501
Filed: November 18, 2002
For: ENERGY TRANSFER SYSTEM FOR COLD STORAGE FACILITIES
Attorney Docket Number: 3113-0004CPB

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on petitioner's request to review the holding of abandonment, mailed December 15, 2003 for failure to timely file corrected drawings due December 26, 2003. The petition is considered pursuant to 37 CFR 1.181. No fee is required for the petition.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response (including corrected drawings) and a copy of a PTO stamped post card receipt dated December 22, 2003. Furthermore, the original response was received by the Office. However, it was incorrectly scanned into the IFW system rather than matched with the present application, which is still in paper form.

In view of the above, the Notice of Abandonment mailed December 15, 2003 is in error and is hereby vacated. The holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status. The application will then be forwarded to the Office of Publications as there are no outstanding requirements.

Richard A. Bertsch, Director
Technology Center 3700

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ALEXANDRIA, VA 22313-1450
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JAN 12 2004

#10

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

In re Application of	:	
Hidekazu Okamoto et al	:	
Serial No.: 10/298,652	:	PETITION DECISION
Filed: November 19, 2002	:	
Attorney Docket No.: 230751	:	

This is in response to the petition under 37 CFR 1.181, filed October 9, 2003, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on January 28, 2003, setting a three month shortened statutory period for reply. Applicants replied on July 16, 2003, including a request for a three month extension of time and fee therefor. A Notice of Abandonment was mailed to applicants on October 1, 2003, when the reply was not timely correlated with the file. The reply has now been correlated with the file. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

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

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

Bruce M. Kisliuk
Director, Technology Center 1600

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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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SEP 20 2004

OFFICE OF PETITIONS

In re Application of :
Stephen E. Fisher :
Application No. 10/298,692 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 2721-0116P :

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

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

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

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

The application matter is being referred to the Publication Division.

Retta Williams

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

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FISH AND NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK NY 10020-1104

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OCT 09 2003

OFFICE OF PETITIONS

In re Application of :
Farr et al. : DECISION GRANTING
Application No. 10/298,695 : PETITION
Filed: 15 November, 2002 :
Attorney Dkt No. X-1 CIP DIV CON2 :

This is a decision on the petition, filed on 9 July, 2003, under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 15 November, 2002, rather than the presently accorded filing date of 19 November, 2002.

Petitioners allege that the application was deposited in Express Mail service on 15 November, 2002. In support, petitioners have provided a copy of Express Mail Label No. EV133109459US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "11-18-02" the label also contains an Official USPS postmark dated 15 November, 2002. In view of the above, the correct date of deposit in Express Mail is 15 November, 2002.

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

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to **15 November, 2002.**

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Cohen, Pontani, Lieberman & Pavane
551 Fifth Avenue
Suite 1210
New York, NY 10176

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MAR 1 8 2005

TECHNOLOGY CENTER 3600

In re Application of:
Michael Zottmann, et.al.
Application No.10/298,738
Filed: November 19, 2002
Attorney Docket No. 4452-511

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of at least one of the claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner David Bagnell at (703)-308-2151.

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

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 272400
FORT COLLINS, CO 80527-2400

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NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Eric U. Eskey :
Application No. 10/298,752 : DECISION GRANTING PETITION
Filed: November 18, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 100110701-1 :

This is a decision on the petition, filed November 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3653 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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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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NOV 29 2006

OFFICE OF PETITIONS

In re Application of :
CHENG, et al. :
Application No. 10/298,815 : DECISION ON PETITION
Filed: November 18, 2002 : TO WITHDRAW
Attorney Docket No. 1384.025US1(FORT-002500) : 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 23, 2006.

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

A review of the file record indicates that the power of attorney to Gregory J. Gorrie of SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. has been revoked by the assignee of the patent application on October 26, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL A. DE SANCTIS**
756 HARRISON ST.
DENVER, CO 80206

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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
10/298,815	11/18/2002	Joseph Cheng	1384.025US1

CONFIRMATION NO. 3999

OC000000021393814

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 11/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/26/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/298,815	11/18/2002	Joseph Cheng	FORT-002500

CONFIRMATION NO. 3999

64128
MICHAEL A. DE SANCTIS
756 HARRISON ST.
DENVER, CO 80206

OC000000021393897

Date Mailed: 11/29/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/26/2006.

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

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/298,824	11/18/2002	Marie-Anne Truong	200205302-1	4867

7590 04/10/2008

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER	
BEKERMAN, MICHAEL	

ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
04/10/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2008 DTERRY
11/20/2002 LWONDIM1 00000034 10298824
02 FC:1201 232.00 CR 082025

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ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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AUG 19 2008

In re Application of
Kung, et. al.
Application No. 10/298,844
Filed: November 19, 2002
Attorney Docket No. 003493.00386

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 17, 2008, as required by the Notice of Allowance and Fee(s) Due mailed December 17, 2007. Accordingly, the application became abandoned on March 18, 2008. A Notice of Abandonment was mailed April 10, 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, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BANNER & WITCOFF, LTD
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/298,845	11/19/2002	Philip R. Kwok	PTB-4398-229	4920

23117 7590 02/19/2010

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
EREZO, DARWIN P	
ART UNIT	**PAPER NUMBER**
3773	

MAIL DATE	DELIVERY MODE
02/19/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of:
KWOK, PHILIP R. et al
Serial No.: 10/298,845
Filed: Nov. 19, 2002
Docket: PTB-4398-229
Title: MASK AND VENT ASSEMBLY THEREFOR

DECISION ON PETITION

This is a decision on the petitions filed February 5, 2009 and December 8, 2009 under 37 CFR 1.181 requesting withdrawal of the election of species requirement of the Office action mailed August 24, 2007. This petition is considered as pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted in part.

In finding petitioner's points of argument persuasive, the requested relief for withdrawal of election of species requirement promulgated on August 24, 2007 is granted. However, a review of the restriction requirement between combination and subcombination inventions of October 18, 2005 does not show any error, the restriction requirement under MPEP § 806.05(a) remains unchanged. In the petition, petitioner also requests that newly added dependent claims 52, 54-56 and 58-66 drawn to the non-elected combination invention filed with the RCE on September 18, 2006 be examined. Under MPEP 706.07(h), applicant cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the previously claimed and examined as a matter of right (i.e. applicant cannot switch inventions). Therefore, the added combination claims 52, 54-56 and 58-66 will be held in abeyance until the elected independent claims 51, 53, 58 are found allowable. The request to examine the added combination claims 52, 54-56 and 58-66 with the filing of the RCE of September 18, 2006 will not be granted at this time. Under the circumstances, the examiner must treat claims 19-28, 30-44, 49-51, 53, 57, 67-138 on the merits in the next Office action. Non-elected combination claims 45-48, 52, 54-56 and 58-66 remain withdrawn from consideration.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3773 for further consideration and examination of the Rule 111 amendment filed on December 8, 2009.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

Accordingly, the petition is **granted in part**.

Donald T. Hajec, Director
Technology Center 3700

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ADVANCED METERIALS PRODUCTS, INC.
8180 BOYLE PARKWAY
TWINSBURG, OH 44087

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Vladimir S. Moxson :
Application No. 10/298,849 : ON PETITION
Filed: November 18, 2002 :
Attorney Docket No. :

This is a decision on the petition, filed March 16, 2005, 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 February 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 21, 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).

The file does not indicate a change of address has been submitted, although the address given on the "Ref: Statement that the entire delay in the consideration of Application # 10/298,849 was unintentional" differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

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

cc:

Vladimir S. Moxson
1890 Georgetown Road
Hudson, OH 44236

Attachment: Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121) (Notice) mailed October 28, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADVANCED MATERIALS PRODUCTS, INC.
8180 BOYLE PARKWAY
TWINSBURG, OH 44087

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JUN 20 2005

OFFICE OF PETITIONS

In re Application of :
Vladimir S. Moxson et al :
Application No. 10/298,849 : ON PETITION
Filed: November 18, 2002 :
Attorney Docket No. :

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

The petition is **GRANTED**.

The change of correspondence address submitted on May 17, 2004 was signed by one inventor, Vladimir S. Moxson. All communications received at the USPTO must be signed by all inventors. See 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

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

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

This matter is being referred to Technology Center AU 1742 for further processing.

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

cc:

Advance Materials Products, Inc.
1890 Georgetown Road
Hudson, Ohio 44236

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PATENT AND
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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#7

FEB 10 2003

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of	:
Anna-Marie Daniels et al	:
Serial No.: 10/298,851	: PETITION TO MAKE SPECIAL
Filed: November 15, 2002	:
Attorney Docket No.: 38931.8001	:

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.

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.

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

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1201 NEW YORK AVENUE NW
SUITE 700
WASHINGTON, DC 20005

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Masashi Akazawa et al	:	
Application No. 10/298,901	:	DECISION GRANTING PETITION
Filed: November 19, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1083.1090	:	

This is a decision on the petition, filed February 5, 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 22, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2166 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb10\298901.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Yung Chi Chang
9201 Clarewood Drive, Apartment #72
Houston, Texas 77036

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of
Yung Chi Chang
Application No.: 10/298,956
Filed: November 18, 2002
Attorney Docket No:

ON PETITION

This is in response to the communication filed February 4, 2005. The communication will be treated as a petition under 37 CFR 1.137(b) to revive the application.

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

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

A final Office action was mailed in the above-cited application on October 3, 2003, allowing for an extendable period for reply of three months from its mailing date. The record reflects that responses were received on January 20, 2004 and January 23, 2004, neither of which was accompanied by a request for an extension of time under3 7 CFR 1.136(a) which would be necessary in order to make the responses timely. Notwithstanding, the examiner assigned to the application issued an Advisory Action noting that the responses did not place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on January 4, 2004. A Notice of Abandonment was mailed on June 2, 2004.

It is noted that petitioner insists that a Notice of Appeal responsive to the final Office action was previously filed, however; a review of the application file did not reveal any paper filed before the abandonment of the application that would constitute a Notice of Appeal as prescribed by 37 CFR 41.31. Likewise, the notice of appeal fee of $250.00 (small entity) required by 37 CFR 41.31(a) as set forth in § 41.20(b)(1) was not found either.

Petitioner may revive the application pursuant to 37 CFR 1.137(a) or (b). If petitioner chooses to revive the application using 37 CFR 1.137(b) asserting that the abandonment of the application was unintentional, petitioner must provide the following:

(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) which is currently $750.00 (small entity);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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).

As to item (1) above, petitioner must file a proper response to the final Office action which would be either a Notice of Appeal, with a conspicuous indication that it is a Notice of Appeal and fee simply stating that applicant appeals the rejection of all claims under rejection, or a Request for Continued Examination and the submission required by 37 CFR 1.114, or an amendment placing the application in condition for allowance. Petitioner is further cautioned against filing multiple responses as it is confusing to the Office and may considerably delay processing of the application. Petitioner is further cautioned that the responses filed should only provide information that is relevant to the prosecution of the application and should be as clear and concise as possible so as to avoid delay in the prosecution of the application. For petitioner's convenience, a form that petitioner may use to file the petition under 37 CFR 1.137(b) is enclosed.

As an alternative to the petition under 37 CFR 1.137(b), petitioner may choose to file a petition under 37 CFR 1.137(a) to revive the application based on unavoidable delay. A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l) which is $250.00 (small entity); (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 required by 37 CFR 1.137(c). Petitioner should consult Section 711.03 of the *Manual of Patent Examining Procedure* for additional guidance on meeting the legal standard used for the petition under 37 CFR 1.137(a). For petitioner's convenience, a form that petitioner may use to file the petition under 37 CFR 1.137(a) is also enclosed.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures:
"Form PTO/SB/61—Petition for Revival of an Application for Patent Abandonbed Unavoidablly under 37 CFR 1.137(a)"
"Form PTO/SB/64—Petition for revival of an Application for patent Abandoned Uintentionally under 37 CFR 1.137(b)"

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Yung Chi Chang
9201 Clarewood Drive, Apartment #72
Houston, Texas 77036

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of
Yung Chi Chang
Application No.: 10/298,956
Filed: November 18, 2002
Attorney Docket No:

ON PETITION

This is in response to the communication filed April 1, 2005. The communication will be treated as a renewed petition under 37 CFR 1.137(b) to revive the application.

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

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

A final Office action was mailed in the above-cited application on October 3, 2003, allowing for an extendable period for reply of three months from its mailing date. The record reflects that responses were received on January 20, 2004 and January 23, 2004, neither of which was accompanied by a request for an extension of time under3 7 CFR 1.136(a) which would be necessary in order to make the responses timely. Notwithstanding, the examiner assigned to the application issued an Advisory Action noting that the responses did not place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on January 4, 2004. A Notice of Abandonment was mailed on June 2, 2004. A petition under 37 CFR 1.137(b) was filed on February 4, 2005, and dismissed by a decision mailed April 1, 2005.

Petitioner may revive the application pursuant to 37 CFR 1.137(a) or (b). If petitioner chooses to revive the application using 37 CFR 1.137(b) asserting that the abandonment of the application was unintentional, petitioner must provide the following:

(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) which is currently $750.00 (small entity);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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 renewed petition lacks items (1) and (2).

As to item (1) above, petitioner must file a proper response to the final Office action which would be either a Notice of Appeal, with a conspicuous indication that it is a Notice of Appeal and fee simply stating that applicant appeals the rejection of all claims under rejection, or a Request for Continued Examination and the submission required by 37 CFR 1.114, or an amendment placing the application in condition for allowance. The papers filed with the instant petition do not address the merits of the examiner's objections as stated in the final Office action mailed October 3, 2003. Petitioner must file a proper response to the final Office action before the petition will be considered grantable. **Petitioner is again further cautioned against filing multiple responses as it is confusing to the Office and may considerably delay processing of the application. Petitioner is further cautioned that the responses filed should only provide information that is relevant to the prosecution of the application and should be as clear and concise as possible so as to avoid delay in the prosecution of the application.** Petitioner may wish to contact the Inventors Assistance Center at (800) PTO-9199, or the examiner assigned to the application for further guidance on filing a proper response to a final Office action.

As to item (2), the fee for the instant petition is $750.00, which was not found with the petition. See 37 CFR 1.17(m). In order to be considered grantable, the fee must accompany any renewed petition filed.

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

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Yung Chi Chang
9201 Clarewood Drive, Apartment #72
Houston, Texas 77036

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of
Yung Chi Chang
Application No.: 10/298,956
Filed: November 18, 2002
Attorney Docket No:

ON PETITION

This is in response to the communication filed July 15, 2005. The communication will be treated as a second renewed petition under 37 CFR 1.137(b) to revive the application.

The second renewed petition under 37 CFR 1.137(b) is **dismissed**.

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

A final Office action was mailed in the above-cited application on October 3, 2003, allowing for an extendable period for reply of three months from its mailing date. The record reflects that responses were received on January 20, 2004 and January 23, 2004, neither of which was accompanied by a request for an extension of time under3 7 CFR 1.136(a) which would be necessary in order to make the responses timely. Notwithstanding, the examiner assigned to the application issued an Advisory Action noting that the responses did not place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on January 4, 2004. A Notice of Abandonment was mailed on June 2, 2004. A petition under 37 CFR 1.137(b) was filed on February 4, 2005, and dismissed by a decision mailed April 1, 2005. A second petition under 37 CFR 1.1.37(b) was filed on May 2, 2005, and dismissed by a decision mailed June 21, 2005.

Petitioner may revive the application pursuant to 37 CFR 1.137(a) or (b). If petitioner chooses to revive the application using 37 CFR 1.137(b) asserting that the abandonment of the application was unintentional, petitioner must provide the following:

(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) which is currently $750.00 (small entity);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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 renewed petition lacks item (1).

It is believed that petitioner intended the reply filed July 14, 2005, to be a Notice of Appeal pursuant to 37 CFR 1.191(a). While this is a proper reply to a final Office action, the fee for the Notice of Appeal did not accompany the petition, therefore, the reply is considered incomplete. The fee for the Notice of Appeal is currently $500.00 for a large entity and $250.00 for a small entity. Any renewed petition must be accompanied by the fee for the Notice of Appeal.

Form PTO/SB/31 "Notice of Appeal" is enclosed for petitioner's convenience. For clarity's sake, petitioner should complete this form and file it along with the Notice of Appeal fee.

The instant petition fee of $750.00, remitted June 29, 2005, is noted and made of record.

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

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

By facsimile: (571) 272-8300
Attn: Office of Petitions

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/31

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ARMSTRONG KRATZ QUINTOS HANSON & BROOKS LLP
1725 K STREET NW
SUITE 1000
WASHINGTON, DC 20006

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JUN 29 2005

OFFICE OF PETITIONS

In re Patent No. 6,811,423	:	
Issue Date: November 2, 2004	:	
Application No. 10/298,959	:	ON PETITION
Filed: November 19, 2002	:	
Attorney Docket No. 012524	:	

This is a decision on the petition filed February 4, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to add an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3218. 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.

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

[1] *See* Official Gazette of June 22, 2004

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ARMSTRONG KRATZ QUINTOS HANSON & BROOKS LLP
1725 K STREET NW
SUITE 1000
WASHINGTON, DC 20006

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JUN 29 2005

OFFICE OF PETITIONS

In re Patent No. 6,811,423 :
Issue Date: November 2, 2004 :
Application No. 10/298,959 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 012524 :

This is a decision on the petition filed February 4, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to add an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3218. 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.

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

=02|524 = CORRECT

INCORRECT

[1] See Official Gazette of June 22, 2004

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 9

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

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of
Savitzky, Mintz, David & Azar
Application No. 10/298,965
Filed: November 19, 2002
Attorney Docket No. 2786-0231P
For: NOVEL NUCLEIC ACID AND AMINO ACID SEQUENCES

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 18, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, Liat Mintz, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration and exhibits of Amos Meltzer, General Counsel of the assignee, establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration. 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.

A review of financial records indicates that the Office erroneously refunded the $65 surcharge petitioners paid for the late filing of an executed declaration to petitioners' deposit account. Accordingly, petitioners' deposit account no. 02-2448 will be charged the $65 surcharge.

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LIAT MINTZ
2 KULESSA COURT
EAST BRUNSWICK, NJ 08816

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Savitzky, Mintz, David & Azar :
Application No. 10/298,965 :
Filed: November 19, 2002 : LETTER
Attorney Docket No. 2786-0231P :
For: NOVEL NUCLEIC ACID AND AMINO ACID SEQUENCES :

Dear Dr. Mintz:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN - 6 2004

Donald R. Studebaker
NIXON PEABODY LLP
8180 Greensboro Drive, Suite 800
McLean, Virginia 22102

In re Application of :
Lawrence F. Glaser :
Serial No.: 10/298,997 : Decision on Petition
Filed: November 19, 2002 :
Attorney Docket No.: 740388-63

This is in response to applicant's "Petition to Make Special Under 37 CFR 1.102(d)" filed May 2, 2003. The delay is regretted.

Applicant's statement has been considered. The requirements under 37 CFR 1.102(d) have been met. Accordingly, the petition is granted. The prosecution will proceed according to the procedure set forth in MPEP 708.02; there is no provision for "withdrawal" from this special status.

Petition GRANTED.

Should there be any questions with respect to this decision, please contact Cecilia Tsang, by mail addressed to: Director, Technology Center 1600, Alexandria, VA 22313-1450, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 305-7230.

Cecilia Tsang
Special Program Examiner, Technology Center 1600

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

MYRIAD GENETICS INC.
INTELLECUTAL PROPERTY
DEPARTMENT
320 WAKARA WAY
SALT LAKE CITY UT 84108

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OCT 18 2007

OFFICE OF PETITIONS

In re Patent No. 7,217,795	:	
Steck et al.	:	DECISION ON REQUEST FOR
Issue Date: May 15, 2007	:	RECONSIDERATION OF
Application No. 10/299,003	:	PATENT TERM ADJUSTMENT
Filed: November 19, 2002	:	
Atty Docket No. 2318-385	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT AND PETITION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed May 16, 2007. Patentees request that the patent term adjustment of four hundred two (402) days reflected in the Issue Notification (and on the patent) be increased to at least four hundred ninety-four (494) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On May 15, 2007, application No. 10/299,003 matured into Patent No. 7,217,795. The instant request for reconsideration filed May 16, 2007, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 402 days. The PTA of 494 days was reduced by 92 days pursuant to 37 CFR § 1.704(c)(10) for the

submission of drawings after the mailing of the notice of allowance.

Patentees' arguments have been considered, but not found persuasive. First, the reduction was entered pursuant to 37 CFR 1.704(c)(10), not 37 CFR 1.704(b). Second, there is no dispute that drawings were filed on February 13, 2007 after the mailing of the notice of allowance on November 3, 2006. Thus, the reduction was warranted. The filing of drawings after the mailing of a Notice of Allowance is properly a basis for reduction of patent term adjustment.

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. Filing of any drawings after allowance will be treated as a failure to engage in reasonable efforts to conclude prosecution. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001; See also MPEP 2700.

Furthermore, patentees did not dispute that there was an error in Figures 6A and 6B resulting in the truncation of part of the letters and necessitating submission of replacement sheets on February 13, 2007. In order to avoid this failure to engage in

reasonable efforts to conclude prosecution of the application, patentees may have filed drawings to correct this reproduction error prior to the mailing of the notice of allowance.

Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by 92 days, counting the number of days in the period beginning on the date the drawings were filed, February 13, 2007, and ending on the date of issuance of the patent, May 15, 2007.

In view thereof, the reduction of 92 days was proper

It is concluded that the patent properly issued with a revised Patent Term Adjustment of four hundred two (402) days.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN, TX 78768

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MAR 20 2007

OFFICE OF PETITIONS

In re Application of :
Igor Ivanov :
Application No.: 10/299,070 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No: 5866-01100 :

This is in response to the petition under 37 CFR 1.137(b) filed November 16, 2006.

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 Notice of Allowability mailed May 26, 2006. The notice set a statutory period for reply of three-months from its mailing date. A response was not received within the allowed period, and the application became abandoned on August 27, 2006. A Notice of Abandonment was mailed on October 6, 2006.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (2) above.

The petition fee did not accompany the instant petition. Neither was there an authorization to charge a deposit account for the petition fee. The fee for the instant petition is $1,500.00 for a large entity and $750.00 for a small entity and must accompany any renewed petition filed.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
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

DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN, TX 78768

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MAY 14 2007

OFFICE OF PETITIONS

In re Application of :

Igor Ivanov :

Application No. 10/299,070 : DECISION ON PETITION

Filed: November 19, 2002 :

Attorney Docket No. 5866-01100

This is a decision on the renewed petition under 37 CFR §1.137(b), filed March 27, 2007 , to revive the above-identified application.

The renewed petition is **granted**.

This application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability (the "Notice") mailed May 26, 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 August 27, 2006. A Notice of Abandonment was mailed October 6, 2006. A petition under 37 CFR 1.137(b) was first filed on November 16, 2006, and dismissed by a decision mailed March 20, 2007.

Corrected drawings were received on March 27, 2007.

The application is being directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GIACCHERINI
POST OFFICE BOX 1146
CARMEL VALLEY CA 93924

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of :
John W. Hayes :
Application No. 10/299,104 : DECISION ON PETITION
Filed: November 18, 2002 :
Attorney Docket No. ARD2001-1-CIPA :

This is a decision on the petition, filed January 3, 2007, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed February 14, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on May 15, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a continuation application, paid the petition fee, and made the proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of application No. 11/649,900, filed January 3, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FURGANG & ADWAR
2 CROSFIELD AVENUE
WEST NYACK, NY 10994

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Steven Caramico :
Application No. 10/299,112 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 8312-P :

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed March 9, 2004. Accordingly, this application became abandoned on June 10, 2004. A Notice of Abandonment was mailed on April 29, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/176,125, filed July 7, 2005.

The file is being returned to Files Repository.

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

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

Lisa K. Jorgenson
STMICROELECTRONICS, INC.
1310 Electronics Drive
Carrollton, TX 75006

Mail Date: 04/21/2010

Applicant	: Sivagnanam Parthasarathy	: DECISION ON REQUEST FOR
Patent Number	: 7600096	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/299,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1573** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

Mail Date: 04/20/2010

Applicant	: David W. Koenig	: DECISION ON REQUEST FOR
Patent Number	: 7585518	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/299,161	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1112** 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
DW May-06

EDWIN D SCHINDLER
FIVE HIRSCH AVENUE
P O BOX 966
CORAM NY 11727-0966

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Malcolm Robert Snowball	:	DECISION ON PETITION TO
Application No. 10/299,178	:	WITHDRAW HOLDING OF
Filed: 19 November, 2002	:	ABANDONMENT
For: FLUID TREATMENT	:	

This is a decision on the petition filed on 5 May, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely and properly respond to the non-final Office action mailed on 24 March, 2003, which set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed on 3 October, 2003.

Petitioners assert that an amendment after final rejection, along with a two (2) month extension of time, was timely filed on 21 August, 2003. A copy of the reply was supplied with the petition.

A review of the record reveals that an amendment and a two (2) month extension of time and fee were filed on 21 August, 2003.

The showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

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

The application is being referred to Technology Center Art Unit 1724 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James Shay
Wilson Sonsini Goodrich Rosati
650 Page Mill Road
Palo Alto, CA 94304

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Amir Belson :
Application No. 10/229,189 : ON PETITION
Filed: August 26, 2002 :
Attorney Docket No. 26427-704.308 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on July 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The Office acknowledges receipt of a Request for Continued Examination (RCE), and Suspension of Action under 37 CFR 1.103(c) filed May 17, 2004, which was prior to the due date of the issue fee. However, since the RCE failed to contain a proper submission, as required by 37 CFR 1.114, the RCE filed May 17, 2004 was considered improper, and did not toll the period for paying the issue fee.

The Notice of Allowance mailed February 20, 2004, set a statutory period for reply of three (3) months. Consequently, the above-identified application became abandoned after midnight May 20, 2004, for failure to timely pay the issue fee and publication fee. 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. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application or RCE is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the Request for Continued Examination (RCE) to charge any additional fees due, the $665 issue fee will be charged to petitioner's deposit account.

Since the issue fee has been paid subsequent to the filing of an RCE, to prevent the inadvertant issuance of a patent, this application is being withdrawn from issue *sua sponte*. See 65F.R. 14865,14870 (March 20, 2000). No additional fee has been charged.

Petitioner is advised that the issue fee paid on July 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

---

[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

This application file is being referred to Technology Center Art Unit 3739, for processing of the Request for Continued Examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement (IDS) filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

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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PATENT & TRADEMARK OFFICE

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT NO.: 6,707,264 B2

DATED: March 16, 2004

INVENTORS: LIN et al

DOCKET NO.: O2Micro 00.09CON

Certificate of Correction Branch
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Certificate of Correction Branch,, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 1, 2004, at Manchester, New Hampshire.

By Dana Robertson
Dana Robertson

PETITION FOR CERTIFICATE OF CORRECTION
UNDER 37 C.F.R. 1.322

Dear Sirs:

O2Micro International Limited, the Assignee of the above-identified patent, through its attorney, hereby petitions for issuance of a Certificate of Correction in the above-identified patent. A Certificate of Correction (PTO form1050) is enclosed, in duplicate. The Certificate of Correction is required to correct a significant printing error occurring in the assignee, as follows:

Replace "2Micro International Limited" with "O2Micro International Limited"

It is believed this error occurred through the fault of the Patent Office. Thus, this Certificate of Correction should be issued without charge to Applicants.

Respectfully submitted,

Certificate
OCT 12 2004
of Correction

Edmund P. Pfleger
Attorney for Applicants
Reg. No. 41,252
Grossman, Tucker, Perreault & Pfleger
55 South Commercial Street
Manchester, New Hampshire 03101

OCT 13 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,707,264 B2

DATED : March 16, 2004

INVENTOR(S) : LIN et al

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

Replace "2Micro International Limited" with "O2Micro International Limited"

MAILING ADDRESS OF SENDER:

Edmund P. Pfleger
Reg. No. 41,252
Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester, New Hampshire 03101

PATENT NO. 6,707,264

Copyright 1994 Legalsoft P15/REV01

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NOV 22 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT NO.: 6,707,264 B2

DATED: March 16, 2004

INVENTORS: LIN et al

DOCKET NO.: O2Micro 00.09CON

Certificate of Correction Branch
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Certificate of Correction Branch,, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 17, 2004, at Manchester, New Hampshire.

By Dana Robertson
Dana Robertson

Certificate
NOV 30 2004
of Correction

SECOND PETITION FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. 1.322

Dear Sirs:

O2Micro International Limited, the Assignee of the above-identified patent, through its attorney, hereby submits this Second Petition for Certificate of Correction in the above-identified patent. A Certificate of Correction (PTO form1050) is enclosed, in duplicate. The Certificate of Correction is required to correct a significant printing error occurring in the assignee, as follows:

Replace "2Micro International Limited" with "O2Micro International Limited"

On October 19, 2004, the U.S. Patent and Trademark Office denied petitioner's first Petition for Certificate of Correction on the basis that the assignment data printed on a patent is based solely on information supplied in the appropriate space for identifying the assignment data on the Issue Fee Transmittal Form. Petitioner argues that the Issue Fee Transmittal Form submitted on December 31, 2003 correctly listed the assignment name as O2Micro International Limited. A copy of that Issue Fee Transmittal Form, as submitted, is enclosed.

In view of the above, it is respectfully requested that a Certificate of Correction be issued without charge to Applicants.

Respectfully submitted,

Edmund P. Pfleger
Attorney for Applicants
Reg. No. 41,252
Grossman, Tucker, Perreault & Pfleger
55 South Commercial Street
Manchester, New Hampshire 03101

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,707,264

DATED : March 16, 2004

INVENTOR(S) : LIN et al

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

Replace "2Micro International Limited" with "O2Micro International Limited"

MAILING ADDRESS OF SENDER:

Edmund P. Pfleger
Reg. No. 41,252
Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester, New Hampshire 03101

PATENT NO. 6,707,264

OCT 13 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **6,707,264**

DATED : **March 16, 2004**

INVENTOR(S) : **LIN et al**

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

Replace "2Micro International Limited" with "O2Micro International Limited"

MAILING ADDRESS OF SENDER:

Edmund P. Pfleger
Reg. No. 41,252
Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester, New Hampshire 03101

PATENT NO. **6,707,264**

OCT 13 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,707,264 B2

DATED : March 16, 2004

INVENTOR(S) : LIN et al

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

Replace "2Micro International Limited" with "O2Micro International Limited"

MAILING ADDRESS OF SENDER:

Edmund P. Pfleger
Reg. No. 41,252
Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester, New Hampshire 03101

PATENT NO. **6,707,264**

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,707,264 B2

DATED : March 16, 2004

INVENTOR(S) : LIN et al

Item 73 Assignee

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

Replace "2Micro International Limited" with "O2Micro International Limited"

MAILING ADDRESS OF SENDER:

Edmund P. Pfleger
Reg. No. 41,252
Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester, New Hampshire 03101

PATENT NO. 6,707,264

Copyright 1994 Legalsoft P15/REV01

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

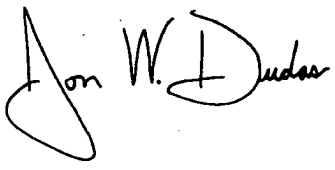
PATENT NO. : 6,707,264 B2
DATED : March 16, 2004
INVENTOR(S) : Lin et al.

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

Title page,
Item [73], Assignee, replace "**2Micro International Limited**" with
-- **O2Micro International Limited** --

Signed and Sealed this

Twenty-second Day of March, 2005



JON W. DUDAS
Director of the 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

Paper No. 7

IBM Corporation
Michael J. Buchenhorner
Intellectual Property Law
555 Bailey Avenue (J46/G4)
San Jose CA 95141

COPY MAILED

AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Gupta et al. :
Application No. 10/299,232 : ON PETITION
Filed: November 19, 2002 :
Attorney's Docket No. SVL920010541 :

This is a decision on the petition filed August 9, 2004, under 37 CFR 1.137(a), to revive the above-identified application.

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

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

The application became abandoned on March 7, 2003, for failure to timely reply to the Notice to File Corrected Application Papers mailed on January 6, 2003, which set a two-month extendable period for reply. No extensions of time were obtained. A Notice of Abandonment was mailed on August 9, 2004.

PETITION UNDER 37 CFR 1.137(a)

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 item (3) above.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[1] 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.[2]

---

[1] 35 U.S.C. § 133.

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte

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.[3]

Petitioner asserts that the Notice to File Corrected Application Papers mailed on January 6, 2003, was never received by the assignee or Michael J. Buchenhorner, the attorney of record. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[4]

As petitioner has not provided sufficient evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), 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

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Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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

[4] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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), an additional petition fee would be due on filing.

Further correspondence with respect to this matter should be addressed as follows and to the Attention of Senior Petitions Attorney Christina Tartera Donnell.

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

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

By hand: 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

IBM Corporation
Michael J. Buchenhorner
Intellectual Property Law
555 Bailey Avenue (J46/G4)
San Jose CA 95141

COPY MAILED

SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Gupta et al. :
Application No. 10/299,232 : ON PETITION
Filed: November 19, 2002 :
Attorney's Docket No. SVL920010541 :

This is a decision on the renewed petition filed August 30, 2004, under 37 CFR 1.137(a), to revive the above-identified application.

The application became abandoned on March 7, 2003, for failure to timely reply to the Notice to File Corrected Application Papers mailed on January 6, 2003, which set a two-month extendable period for reply. No extensions of time were obtained. A Notice of Abandonment was mailed on August 9, 2004.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Accordingly, the petition under 37 CFR 1.137(a) is **granted**.

The $130.00 petition fee submitted with the present renewed petition is unnecessary and will be refunded 50-2870.

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

OIPE JC18
MAY 31 2005
PATENT & TRADEMARK OFFICE

1732
Pet. Dec.

Attorney Docket No.: FRAN-007

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Serial No.: **10/299,255**)
Patent No.: **Not Applicable.**)
Filed: **11/18/2002**)
Invention: **Custom Shoe Sole Manufacturing System**)
1st Inventor: **Franzene, Brian**)
Examiner: **McDowell, Suzanne E.**)
Group Art Unit: **1732**)

REQUEST FOR WITHDRAWAL AS ATTORNEY

Approved
Jacqueline M. Stone, Director
Technology Center 1700
7/15/05

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

Dear Commissioner:

I, Michael S. Neustel, (41,221) hereby apply to withdraw as attorney for the above-identified patent application. This application for withdrawal will not prejudice the Applicant in this matter. Attorney has given due notice to the Applicant of his withdrawal and has delivered to the Applicant all papers/property in the Attorney's file concerning the prosecution of the application.

The reason(s) for this request are:

[ ] Practitioner has been discharged by client.

[ ] Client knowingly and freely assents to termination of the employment.

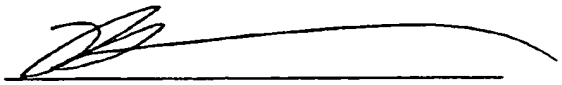
[ ] Client has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time.

[X] Client has failed to pay a retainer in advance of the performance of legal services and/or payment of USPTO fees.

Please change the correspondence address and direct all future correspondence to:

Brian J. Franzene
663 High Street
Lake Geneva, WI 53147
Telephone: (262) 248-2537 (262) 903-3094
Facsimile:

Respectfully submitted,



May 26, 2005
Date

Michael S. Neustel (Reg. No. 41,221)
NEUSTEL LAW OFFICES, LTD
2534 South University Drive, Suite No. 4
Fargo, North Dakota 58103
Telephone: (701) 281-8822
Facsimile: (701) 237-0544
e-mail: michael@neustel.com

Copy: Brian J. Franzene

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
10/299,264	11/19/2002	1617	992	6999.US.O1	2	17	6

CONFIRMATION NO. 4543

CORRECTED FILING RECEIPT

OC000000012590041

23492
STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

Date Mailed: 05/11/2004

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

Applicant(s)

Kristof Chwalisz, Hawthorn Woods, IL;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/18/2002

Projected Publication Date: 05/20/2004

Non-Publication Request: No

Early Publication Request: No

Title

Use of selective progesterone receptor modulators for the treatment of androgen deficiency

Preliminary Class

514

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 16 2004

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 13

In re Application of :
Marci Elizabeth Kuske *et al* : DECISION ON PETITION
Application No. 10/299,279 :
Filed: November 14 2002 :
Attorney Docket No. 659-1064 :

This is a decision on the petition filed on May 17, 2004 by which petitioners are requesting withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated September 11, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A refund of the $1,330.00 petition fee submitted with this petition will be credited to Deposit Account No. 23-1925.

The petition is granted.

Petitioners allege that this application is not abandoned because the Office letter in question, a final rejection, was not received. In support of this allegation, petitioners have made a showing as discussed at MPEP § 711.03(c). The showing has been reviewed and it clearly satisfies the requirements of the Notice published at 1156 OG 53 pertaining to abandonment resulting from nonreceipt of Office correspondence. Based upon the showing, it is clear this application is not technically abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. Therefore, notwithstanding that petitioners have already obtained a copy of the Office letter in question, this application is being forwarded to the Head Supervisory Applications Examiner to re-mail the Office letter dated September 11, 2003, together with all attachments thereto. The re-mailing is necessary to place the application in a pending status. Thereafter, the Head Supervisory Applications Examiner will enter the Notice of Appeal, the Appeal brief and the amendment after appeal, all filed on September 1, 2004. The necessary fees for these items have already been paid and applied. The application will then be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60611

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,352,833 :
Issued: April 1, 2008 : LETTER REGARDING PTA and
Application No. 10/299,285 : NOTICE OF INTENT TO ISSUE
Filed: November 18, 2002 : CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 16113-386001 :

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed April 2, 2008. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,352,833 on April 1, 2008. The patent issued with a patent term adjustment (PTA) of 802 days. Patentees indicate that this appears to be longer than appropriate. Patentees direct the Office's attention to the Request for Corrected Filing Receipt filed November 15, 2007.

The calculation of adjustment has been reviewed and found to contain error. The correct adjustment at the time of issuance is 794 days.

As previously determined, the application is entitled to an adjustment of 872 days in accordance with 37 CFR 1.702(a)(1). The adjustment was properly reduced 70 days at the time of allowance.

The Office, however, neglected to assess a reduction of one day in connection with the Information Disclosure Statement (IDS) filed June 20, 2007. In accordance with 37 CFR 1.704(c)(8), the reduction commenced June 20, 2007, the day after the initial reply (RCE) was filed, and ended June 20, 2007, the date that the supplemental reply (IDS) was filed.

Furthermore, as advised by patentees, the Office neglected to assess a reduction of seven days in connection with the Request for Corrected Filing Receipt filed November 15, 2007. In accordance with 37 CFR 1.704(c)(10), the reduction commenced November 15, 2007, the date that the request was filed, and

ended November 21, 2007, the date that a reply in response thereto was mailed.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 794 days (adjustment totaling 872 days less reduction of 78 days).

No additional fee has been assessed in connection with this matter.

Any request for reconsideration of this matter must be submitted within THIRTY DAYS. Extensions of time under 37 CFR 1.136 are not permitted.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 794 days.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Draft Certificate of Correction

Day : Thursday
Date: 6/18/2009

PALM INTRANET

Time: 15:56:56

PTA Calculations for Application: 10/299285			
Application Filing Date:	11/18/2002	PTO Delay (PTO):	872
Issue Date of Patent:	04/01/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	70
Post-Issue Petitions:	0	Total PTA (days):	794
PTO Delay Adjustment:	-8		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		7	
79	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
75.5	03/12/2008	PTA 36 MONTHS			
75	04/01/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
74	12/27/2007	EXPORT TO FINAL DATA CAPTURE			
73	12/26/2007	DISPATCH TO FDC			
72	12/06/2007	RESPONSE TO REASONS FOR ALLOWANCE			
71	12/08/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
70	12/06/2007	ISSUE FEE PAYMENT VERIFIED			
69	12/06/2007	ISSUE FEE PAYMENT RECEIVED			
68	09/17/2007	EXPORT TO INITIAL DATA CAPTURE			
67	09/13/2007	MAIL NOTICE OF ALLOWANCE			
66	09/12/2007	ISSUE REVISION COMPLETED			
65	09/12/2007	DOCUMENT VERIFICATION			
64	09/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	09/10/2007	NOTICE OF ALLOWABILITY			
62	09/10/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
61	06/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	06/19/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	07/05/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
58	07/05/2007	CORRESPONDENCE ADDRESS CHANGE			

57	07/06/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
56	06/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	06/20/2007	NEW OR ADDITIONAL DRAWING FILED			
54	06/22/2007	DATE FORWARDED TO EXAMINER			
53	06/19/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
52	06/22/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
51	06/19/2007	NEW OR ADDITIONAL DRAWING FILED			
50	06/19/2007	REFERENCE CAPTURE ON IDS			
49	06/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	06/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	06/19/2007	WORKFLOW - DRAWINGS FINISHED			
46	06/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	06/19/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	03/23/2007	EXPORT TO INITIAL DATA CAPTURE			
41	04/18/2007	FINISHED INITIAL DATA CAPTURE			
40	03/20/2007	MAIL NOTICE OF ALLOWANCE			
39	03/20/2007	MAIL EXAMINER'S AMENDMENT			
38	03/19/2007	ISSUE REVISION COMPLETED			
37	03/12/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
36	03/12/2007	DOCUMENT VERIFICATION			
35	03/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	03/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	03/12/2007	EXAMINER'S AMENDMENT COMMUNICATION			
32	03/09/2007	NOTICE OF ALLOWABILITY			
31	02/21/2007	DATE FORWARDED TO EXAMINER			
30	02/06/2007	RESPONSE AFTER NON-FINAL ACTION		64	26
29	02/06/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	01/05/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
27	01/03/2007	DATE FORWARDED TO EXAMINER			

26.1	12/04/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
26	12/04/2006	RESPONSE AFTER NON-FINAL ACTION		6	25
25	08/28/2006	MAIL NON-FINAL REJECTION			
24	08/25/2006	NON-FINAL REJECTION			
23	10/07/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	08/08/2006	DATE FORWARDED TO EXAMINER			
21	07/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
20	07/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	06/08/2006	MAIL RESTRICTION REQUIREMENT	872		-1
18	06/06/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
17	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	02/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	10/07/2005	REFERENCE CAPTURE ON IDS			
14.7	10/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	11/12/2003	MISCELLANEOUS INCOMING LETTER			
11	11/06/2003	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
10	08/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	04/03/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	03/25/2003	APPLICATION DISPATCHED FROM OIPE			
7	03/14/2003	APPLICATION IS NOW COMPLETE			
6	02/20/2003	ADDITIONAL APPLICATION FILING FEES			
5	02/20/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
4	01/02/2003	CORRECTED PAPER			
3	12/20/2002	CLEARED BY L&R (LARS)			
2	11/22/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/18/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.
Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,352,833 B2
DATED	:	April 1, 2008
INVENTOR(S)	:	Gossett, 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 802 days

Delete the phrase "by 802 days" and insert – by 794 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of

ULLMAN, et al.
Application No. 10/299,335
Filed: November 18, 2002
Attorney Docket No. 4247.51

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 September 29, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "application is being transferred to another attorney", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON PEABODY LLP**
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of
ULLMAN, et al.
Application No. 10/299,335
Filed: 10/299,335
Attorney Docket No. **4247.51**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CRAIG ULLMAN**
112 WILLOW STREET, APT 416
BROOKLYN, NY 11201

cc: **MARC KAUFMAN, ESQ.**
NIXON PEABODY LLP
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

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DEVON A. ROLF
GARMIN INTERNATIONAL, INC.
1200 EAST 151st STREET
OLATHE, KS 66062

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Beason et al.	:	
Application No. 10/299,339	:	ON PETITION
Filed: November 19, 2002	:	
Attorney Docket No. 702.226	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed September 28, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 29, 2004.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

cc: THOMAS B. LUEBBERING
HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY, MO 64108

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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GARMIN CORPORATION
ATTN: Legal - IP
1200 EAST 151ST STREET
OLATHE, KS 66062

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MAY 26 2006

OFFICE OF PETITIONS

In re Application of :
Lawrence W. Beason, et al. :
Application No. 10/299,339 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No.: 702.226 :

This is a decision on the petition, filed May 25, 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 7, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3662 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : May 26, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Lawrence W. Beason, et al.
Application No. : 10/299,339
Filed : November 19, 2002

The above-identified application has been assigned Patent No. 7,057,552 and an issue date of June 6, 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 June 6, 2006:

> "All reference to Patent No. 7,057,552 to LAWRENCE W. BEASON, ET AL. of KANSAS for COMBINED GLOBAL POSITIONING SYSTEM RECEIVER AND RADIO appearing in the Official Gazette of June 6, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. 8

Sandra Poteat Thompson
Riordan & McKinzie
18th Floor
600 Anton Boulevard
Costa Mesa, CA 92626

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of:
Hacker et al.
Application No. 10/299,349
Filed: November 18, 2002
Title of Invention:
ORGANOHYDRIDOSILOXANE RESINS WITH HIGH ORGANIC CONTENT

DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to a petition under 37 CFR 1.47(b), filed May 19, 2003, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

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(b)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, and be addressed to Petitions Attorney Derek L. Woods. 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 November 18, 2002, without an oath or declaration. Applicant files the instant petition to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as

agent for all inventors. In support of the petition, Applicant filed a Statement by Person Having First Hand Knowledge That the Nonsigning Inventor was Employee or Otherwise Obligated to Person with Sufficient Proprietary Interest When Invention was Made (hereinafter Statement"). The statement "confirm[s] that the nonsigning inventor made the above-identified invention while in the employ of or otherwise obligated to [Honeywell International Inc.]". Statement at p.1. Also filed in support of the petition is a Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor (Hereinafter "Statement of Facts"). Attached to the Statement of Facts are copies of letters sent to the nonsigning inventor. A review of the letters provides that "a Declaration/Power of Attorney, Assignment, Rule 56 Questionnaire and Taiwanese Oath for the above-referenced [patent application]" were mailed to the nonsigning inventor on January 16, 2003, February 24, 2003 and March 17, 2003, requesting that the nonsigning inventor execute the documents. No oath or declaration has been located among the application papers.

It is initially noted that 37 CFR 1.47 provides for two separate and distinct circumstances to allow that application to proceed without the signature of the inventor(s). The first is where an inventor refuses to sign an application after having been presented with the application for signature, and the second is where an inventor cannot be found or reached after diligent effort. Both situations are separate and distinct and require separate and distinct steps in order to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors. In this instance, Applicant avers that diligent effort was made to secure the execution of the Declaration. Diligent effort is required when attempting to locate a nonsigning inventor. Here, the whereabouts of the nonsigning inventor is apparently known. What is required in this instance is that the application be mailed to the nonsigning inventor at his or her last known address, before a refusal to join the application can be alleged.

Applicable Law

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(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (1), (2) and (5) as 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).

Here, Applicant provides that "a Declaration/Power of Attorney, Assignment, Rule 56 Questionnaire and Taiwanese Oath for the above-referenced [patent application]". *Attached Letters dated January 16, 2003, February 24, 2003 and March 17, 2003.* Where, as here, a refusal to sign the oath or declaration is alleged, what is required is that the application (specification, claims and drawings), be mailed to the nonsigning inventor at his or her last known address.

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure:

> Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or *the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.* Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner,* 189 USPQ 272 (D.D.C. 1976), *In re Striker,* 182 USPQ 507 (Comm'r Pat. 1973). (Emphasis supplied). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Applicant has not presented an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64. A properly executed oath or declaration is required.

As to item (5), applicant failed to show or provide proof that Honeywell International Inc., has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant (company), a copy

of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

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

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

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

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Sandra Poteat Thompson
Riordan & McKinzie
18th Floor
600 Anton Boulevard
Costa Mesa, CA 92626

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OFFICE OF PETITIONS

In re Application of:	:	
Hacker et al.	:	
Application No. 10/299,349	:	DECISION NOTING
Filed: November 18, 2002	:	JOINDER OF
Title of Invention:	:	INVENTOR
ORGANOHYDRIDOSILOXANE RESINS WITH	:	
HIGH ORGANIC CONTENT	:	

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a) filed March 2, 2004, noting the joinder of the inventor.

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

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

This application is being forwarded to the Office of 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

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OFFICE OF PETITIONS

#9

Honeywell's Docket No. 30-4305 DIV2 (4780)
Practitioner's Docket No. 7210705002-3221000 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: HACKER, et al.

Application No.: 10/299,349 Group No.: 1754
Filed: November 18, 2002 Examiner: Not Yet Assigned
For: ORGANOHYDRIDOSILOXANE RESINS WITH HIGH ORGANIC CONTENT

Mail Stop Office of Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
Attention: Derek L. Woods

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(b)

I. This replies to the Decision Refusing Status Under 37 CFR 1.47(b) mailed January 20, 2004.

DECLARATION OR OATH

II. No declaration or oath was filed. Enclosed is the original declaration or oath for this application from inventor Scott Lefferts.

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. SECTION 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

[X] deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

FACSIMILE

[ ] transmitted by facsimile to the Patent and Trademark Office at (703) ___ - _____.

Date: February 24, 2004

Kristin J. Azcona

EXTENSION OF TIME

III. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) do not apply. Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

AUTHORIZATION TO CHARGE ADDITIONAL FEES

VII. The Commissioner is hereby authorized to charge the following additional fees that may be required by this paper and during the pendency of this application to Account No. 502518.

37 C.F.R. Section 1.16(a), (f) or (g) (filing fees)
37 C.F.R. Section 1.16(b), (c) and (d) (presentation of extra claims) 37 C.F.R. Section 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
37 C.F.R. Section 1.17(a)(1)-(5) (extension fees pursuant to Section 1.136(a))
37 C.F.R. Section 1.17 (application processing fees)

Date: February 24, 2004

Sandra Poteat Thompson
Registration No. 46264
Bingham McCutchen
600 Anton Blvd., 18th Floor
Costa Mesa, CA 92626
Customer No. 23639

Please acknowledge receipt of the following by affixing hereon the Official date stamp and returning this card to our office.

Request for Reconsideration of Petition Under 37 CFR 1.47(b)

Title:	Organohydridosiloxane Resins With High Organic Content
Inventor:	Honeywell (WFM) - Lisa Figge, et al.
Filing Date:	November 18, 2002
Serial Number:	10/299,349
Matter Type:	Patent - US
Date of Deposit:	February 24, 2004
Matter #:	7210705002-3221000
Enclosures:	(1) Request for Reconsideration (2 pages); (2) Declaration of S. Lefferts (3 pages); and (3) postcard.

DATE MAILED: 2/24/04 SBU: 4780

PATENT APPLICATION FOR: Organohydridosiloxane resins...

INVENTOR(S): Hacker et al.

SERIAL NO.: 10/299349

THE FOLLOWING HAS BEEN RECEIVED IN THE U.S. PATENT AND TRADEMARK OFFICE ON THE DATE STAMPED HEREON:

- ☐ Missing Parts of Application Transmittal $_____
- ☐ Combined Declaration/Power of Attorney $_____
- ☐ Power of Attorney
- ☐ Assignment and Cover Sheet: $_____
- ☐ Information Disclosure Statement ☐ ISR ☐ From PTO 1449 with_____ References $_____
- ☐ Request for Corrected Filing Receipt
- ☐ Amendment/Response (_____ page(s)) $_____
- ☐ Petition for Extension of Time (_____ months) $_____
- ☐ Amendment After Final Rejection (_____ page(s)) $_____
- ☐ Notice of Appeal
- ☐ Appeal Brief (_____ page(s)) $_____
- ☐ Issue Fee Transmittal $_____
- ☐ Formal Drawing(s); No. of Sheets_____
- ☐ Total fees charged to Deposit Account No. 01-1125: $_____

OTHER Petition Reconsideration $ 0

Attorney Docket No.: 30-4305 DIV2

Attorney: Kirschner

Outside Counsel: Bingham

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
BLDG 300/ZIP 482, 2070 ROUTE 52
HOPEWELL JUNCTION, NY 12533

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AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Richard A. Conti et al :
Application No. 10/299,357 : ON PETITION
Filed: November 18, 2002 :
Attorney Docket No. FIS920010078US2 :

This is a decision on the petition under 37 CFR 1.313(c), filed August 10, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
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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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVENUE, NW
WASHINGTON, DC 20036-5304

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OFFICE OF PETITIONS

In re Patent No. 7,052,504 :
Issue Date: May 30, 2006 :
Application No. 10/299,360 : DECISION ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 59474.21940 :

This is a decision on the petition under 37 CFR 3.81(b), filed June 16, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Pilling Weck Incorporated and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that a Certificate of Correction be issued naming Pilling Weck Incorporated as the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

The request under 37 CFR 3.81(b) was not accompanied by the form for the requested Certificate of Correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has not satisfied the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to Pilling Weck Incorporated of Limerick, Pennsylvania, was recorded on April 28, 2003. Therefore, upon submission of the required Certificate of Correction form 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 Pilling Weck Incorporated was the assignee of record at the time of issuance of this application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above, the Certificates of Correction Branch is instructed to issue a Certificate of Correction **upon submission by petitioner of a request and form for a Certificate of Correction (and fee), which sets forth *Pilling Weck Incorporated*, as the assignee**. *No Certificate of Correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a Certificate of Correction in the name of the assignee set forth in the request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested Certificate of Correction upon submission by petitioner thereof.

As authorized, the $130 processing fee for the request under 37 CFR 3.81(b) as been assessed to petitioner's deposit account.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3218. Any questions concerning issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

Mail Date: 04/21/2010

Applicant	: Shigeaki Harayama	: DECISION ON REQUEST FOR
Patent Number	: 7662551	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/299,362	: 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 **937** 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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Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Bjerke et al.	:	
Application No. 10/299,374	:	DECISION ON PETITION
Filed: November 18, 2002	:	
Attorney Docket No. 020512	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2009, 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 July 6, 2009, as required by the Notice of Allowance and Fee(s) Due mailed April 6, 2009. Accordingly, the date of abandonment of this application is July 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00, the publication fee of $300.00 (as authorized July 7, 2009), and a Request for Continued Examination and fee of $810.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, petitioner is advised that, once submitted, the issue fee 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.

Additionally, petitioner has submitted an Information Disclosure Statement requiring a fee of $180.00. This fee will be charged to petitioner's deposit account as authorized on July 7, 2009.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant

petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The file is now being forwarded to Technology Center 2112 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Alain Sabatier et al. :
Application No. 10/299,393 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No.: **A32917-PCT-USA-I 072667.0** :

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on December 20, 2005 for failure to timely file a reply to the final Office action mailed September 19, 2005, which set a three (3) month shortened statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The Notice of Appeal filed June 12, 2006 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 1656 for processing of the Notice of Appeal.

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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APR 15 2008

OFFICE OF PETITIONS

In re Application of :
Sabatier, et al. :
Application No. 10/299,393 : NOTICE
Filed: November 19, 2002 :
Attorney Docket No. A32917-PCT-USA-I :
072667.0

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

December 22, 2004

Daniel G. Chapik
Medtronic, Inc.
710 Medtronic Parkway NE
MS-LC340
Minneapolis, MN 55432-5604

In re Application of:
Victor Parsonnet
Serial No: 10/299,397
Filing Date: November 20, 2002
For: ORGAN REJECTION MONITORING

In response to the petition received June 30, 2004, to withdraw the holding of abandonment in the above application.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Application mailed December 23, 2002. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned February 25, 2003.

The petition is Granted.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed with the documents received on June 30, 2004 for release to Technology Center 3736.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

December 22, 2004

Daniel G. Chapik
Medtronic, Inc.
710 Medtronic Parkway NE
MS-LC340
Minneapolis, MN 55432-5604

In re Application of:
Victor Parsonnet
Serial No: 10/299,397
Filing Date: November 20, 2002
For: ORGAN REJECTION MONITORING

In response to the petition received June 30, 2004, to withdraw the holding of abandonment in the above application.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Application mailed December 23, 2002. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned February 25, 2003.

The petition is Granted.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed with the documents received on June 30, 2004 for release to Technology Center 3736.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

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Jimmie D. Johnson
Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia PA 19107-2950

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of :
WILKES et al. :
Application No. 10/299,411 :
Filed: November 19, 2002 :
Attorney Docket No. SPC-941 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 30, 2004, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 31, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of a Request for Continued Examination (RCE), an amendment previously filed on June 2, 2005, and the requisite fee of $790; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final action of December 30, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center AU 1621 for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICROBAN PRODUCTS COMPANY
11400 VANSTORY DRIVE
HUNTERSVILLE, NC 28078

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OCT 01 2009

OFFICE OF PETITIONS

In re Application of :
Stephen A. Payne :
Application No. 10/299,413 : DECISION ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 30101.080 :

This is a decision on the petition, filed July 13, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **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 application was held abandoned for failure to reply to the Notification of Non-Compliant Appeal Brief mailed electronically on November 21, 2008, which set a 1-month shortened statutory period for reply. A Notice of Abandonment was mailed on June 25, 2009.

Petitioner asserts that the Office action dated November 21, 2008 was not received. In support, petitioner provides the showing required for non-receipt of an Office communication that is mailed to the correspondence address of record. However, it is noted that petitioner has participated in the electronic delivery method for receiving office communications since September 4, 2007. Therefore, the Office communication of November 21, 2008 would not have been delivered by mail to a correspondence address, but rather an electronic notification would have been sent to counsel of record.

A review of the written record indicates no irregularity in the electronic notification of the mailing of the Office communication. The circumstances point to a conclusion that the Office communication was not promptly viewed and routed to counsel, rather than not having been received.

In view of the above, the petition requesting withdrawal of the holding of abandonment cannot be granted.

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." 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 $810 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 cannot make a statement that the delay was unintentional unless the entire delay, including 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 delivered through one of the following mediums:

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

By internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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MICROBAN PRODUCTS COMPANY
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HUNTERSVILLE, NC 28078

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APR 16 2010

OFFICE OF PETITIONS

In re Application of :
Stephen A. Payne :
Application No. 10/299,413 : DECISION ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 30101.080 :

This is a decision on the renewed petition, filed October 9, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition 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."

The application was held abandoned for failure to reply to the Notification of Non-Compliant Appeal Brief mailed electronically on November 21, 2008, which set a 1-month shortened statutory period for reply. A Notice of Abandonment was mailed on June 25, 2009.

Petitioner argues that the Office action dated November 21, 2008 was not received; however, petitioner provides a copy of "the cover sheet of the Second Notification (21 NOV 2008) and First Notification of Non-Compliant Appeal Brief (20 OCT 200) **received by counsel of record in paper form**" showing a date mailed. Petitioner indicates that while petitioner participates in the electronic Office Action Notification program, the communications of October 20, 2008 and November 21, 2008 appear not to be within the electronic program since they sent US Mail rather than electronic means.

Petitioner's argument is not well taken. Relevant portions of the e-Office Action FAQs are reprinted in bold text for petitioner's convenience.

> **The e-Office Action program is designed to notify applicants, via e-mail, that new Office communication is available for viewing and downloading in**

Private PAIR. Applicants who opt-in to the program will receive a daily e-mail notification that will replace the daily POSTAL MAILED PAPER DELIVERY of Office communication.

Petitioner confirms participation in the program. A review of the written record of the present application clearly shows an electronic notification of the mailing of the Office communications of October 21, 2008 and November 21, 2008.

Applicants participating in the e-Office Action program will rely solely on e-mail notifications and the Office communication that is electronically available in Private PAIR rather than paper copies of communication sent through the mail.

Therefore, even if the communications were mailed (via US mail) to counsel of record in paper form, and not received, applicants agreed to rely solely on e-mail notifications. Clearly the e-mail notification was sent and the communications were available and viewable electronically on the date of notification.

Again, the circumstances point to a conclusion that the Office communication complained of was not promptly viewed and routed to counsel, rather than not having been received. Accordingly, the petition requesting withdrawal of the holding of abandonment cannot be granted.

Petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

By internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

WATTS, HOFFMANN, FISHER & HEINKE CO., L.P.A.
P.O. Box 99839
Cleveland, Ohio 44199-0839

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SEP -8 2003

OFFICE OF DIRECTOR
GROUP

In re Application of)
Varshneya et al.)
Application No. 10/299,414) DECISION ON REQUEST TO
Filed: November 19, 2002) WITHDRAW FROM RECORD
For: Attorney Docket No. 16-226)

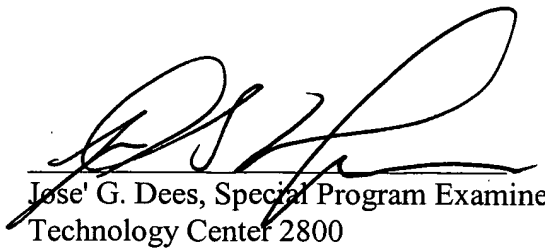
This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 23, 2003.

A grantable request to withdraw as attorney of record 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 request meets all the above listed requirements.

The request is APPROVED.

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



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

cc: Deepak Varshneya
3057 Caminito Sagunto
Del Mar, CA 92104-3934

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Mailed: 11-30-05

In re application of	:	
Levitt et al.	:	DECISION ON
Serial No.10/299,428	:	PETITION
Filed: November 18, 2002		:
For: HAND DISHWASHING DETERGENT COMPOSITION AND METHODS FOR MANUFACTURING AND USING		:

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed October 18, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of September 22,2004 for failure to timely file a proper reply to the Office letter of April 13, 2004 be withdrawn since the applicants did timely file a response thereto on August 13, 2004. (A copy of the response filed August 13, 2004 is within the instant application transferred from incorrectly matched application 10/229,428).

DECISION

The instant request has been accepted as a timely petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181(no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was filed with the USPTO on August 13, 2004 in incorrectly matched application Serial Number 10/229,428 . A review of the USPTO financial records indicates that the fee of $110.00 was credited to the instant application on August 16, 2004. A further review of the each of the originally filed papers indicates that applicant's response of August 13, 2004 contained incorrect Serial No. 10/229,428 thereon but the response contained thereon the correct inventors, title, attorney docket number, art unit, examiner and filing date.

Therefore upon consideration of the entirety of the evidence presented it is considered that applicant's response filed August 13, 2004 was intended to be filed in serial number 10/299,428 rather than the incorrect serial number of 10/229,428 listed on the response, thus, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Office letter mailed on April 13, 2004 is hereby vacated, and the application is returned to pending status. The application shall be forwarded to the examiner for processing and consideration of the papers originally filed August 13, 2004.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Dennis R. Daley
Merchant & Gould
P.O. Box 2903
Minneapolis, MN 55402-0903

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APR 13 2007

OFFICE OF PETITIONS

Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of :

Mark D. Levitt et al. :
Application No. 10/299,428 : DECISION ON PETITION
Filed: November 18, 2002 : TO WITHDRAW
Attorney Docket No. 163.1688USU1 : 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).

The request was signed by Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

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Clark, NJ 07066

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OFFICE OF PETITIONS

In re Application of :
Hasan Kulaksiz, et. al. :
Application No. 10/299,486 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. DRG0001 :
(DRG3.0-001)

This is a decision on the petition under 37 CFR 1.182, filed May 3, 2004, to change the order of the inventor names.

The petition is **GRANTED**.

The order of inventor names will be changed as follows:

1. Hasan Kulaksiz
2. Cyril E. Geacintov
3. Alfred Janetzko
4. Wolfgang Stremmel

The above-identified application is being forwarded to Technology Center Art Unit 1641, for further processing, in due course.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

CORVIS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
7015 ALBERT EINSTEIN DRIVE
COLUMBIA, MD 21046-9400

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SEP 1 0 2003

OFFICE OF PETITIONS

In re Application of:
Lee Daniel Feinberg
Application No. 10/299,491
Filed: November 19, 2002
Title of Invention:
INTERCONNECTIONS AND PROTECTION BETWEEN OPTICAL COMMUNICATIONS NETWORKS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is a decision on the Petition Under 37 CFR § 1.47, which is being treated as a petition under 37 CFR 1.47(b), filed August 11, 2003, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

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. **FAILURE TO RESPOND WILL RESULT IN THE ABANDONMENT OF THIS APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(b)", and be addressed to Petitions Attorney Derek L. Woods.

The above-identified application was filed on November 19, 2002, without a fully executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") was mailed on February 11, 2003, noting, in relevant part, the above deficiency.

In response, Petitioner files the instant petition and supporting documents. Of note is that the petition avers that copies of e-mails and letters between the company and the inventor have been included with this filing; however, no such documents appear in the application file.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last

known address of the non-signing inventor(s); (5) proof of proprietary interest; and (6) proof of irreparable damage. Rule 47(b) applicant lacks items (1) and (2) set forth above.

It is initially noted that 37 CFR 1.47 provides for two separate and distinct circumstances: one where the inventor refuses to join the application after having been presented with the application for signature, and the other where an inventor cannot be found or reached after diligent effort.

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant has failed to establish that the nonsigning inventor was ever 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. Emphasis supplied.

MPEP 409.03(d).

Therefore, where it is alleged that an inventor refuses to join an application, the MPEP requires that a copy of the application be sent to the last known address of the nonsigning inventor(s). The last known address should be the last known residence at which the inventor customarily receives mail. See, MPEP 409.03(e) and 605.03.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. Petitioner must provide an oath or declaration with the inventors name, address and citizenship, and signed by a person to whom the inventor has assigned the invention, or who otherwise shows sufficient proprietary interest in the application, and include the title or position of the person signing on behalf of the company on the oath or declaration. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(b).

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

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

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

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

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
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Lee Daniel Feinberg
17428 Carona Drive
Silver Spring, MD 20905-7411

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OFFICE OF PETITIONS

In re Application of:
Lee Daniel Feinberg
Application No. 10/299,491
Filed: November 19, 2002
Title of Invention:
INTERCONNECTIONS AND PROTECTION BETWEEN OPTICAL COMMUNICATIONS NETWORKS

LETTER

Dear Mr. Feinberg:

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: CORVIS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
7015 ALBERT EINSTEIN DRIVE
COLUMBIA, MD 21046-9400 CONCORD, MA 01742-9133

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

CORVIS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
7015 ALBERT EINSTEIN DRIVE
COLUMBIA, MD 21046-9400

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NOV 25 2003

OFFICE OF PETITIONS

In re Application of:
Lee Daniel Feinberg
Application No. 10/299,491
Filed: November 19, 2002
Title of Invention:
INTERCONNECTIONS AND PROTECTION BETWEEN OPTICAL COMMUNICATIONS NETWORKS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(b)

This is a decision on the Petition Under 37 CFR § 1.47, which is being treated as a petition under 37 CFR 1.47(b), filed August 11, 2003, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

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, Lee Daniel Feinberg, 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

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Amin & Turocy, LLP
24th Floor, National City Center
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Cleveland OH 44114

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AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Hamilton, Jeffery L. :
Application No. 10/299,496 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 02SW041 :
(ALBRP283US)

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 22, 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 fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
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CHICAGO IL 60606

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JUN 28 2010

OFFICE OF PETITIONS

In re Application of :
Kopreski, et al. :
Application No. 10/299,559 : ON APPLICATION FOR
Filed: November 19, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. 01-1726-A

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed March 30, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is six hundred and twelve (612) days, not ninety-two (92) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1:702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on April 24, 2007.

Deposit account 13-2490 will be charged $200.00 for the 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 (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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ST. PETERSBURG, FL 33747

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of :
Alfreda B. Bradford :
Application No. 10/299,561 :
Filed: November 19, 2002 :
Attorney Docket No. 3081M :

LETTER

This is in reply to a letter dated September 28, 2004 from applicant Alfreda B. Bradford regarding the letter of abandonment dated September 10, 2004.

A review of the application file discloses the following:

- A Notice of Allowance and Issue Fee(s) Due was mailed on May 13, 2004, requiring submission of the issue fee payment in the amount of $665 and the publication fee in the amount of $300 to be paid on or before August 13, 2004 to avoid the abandonment of the application.

- The issue fee and publication fee payments were mailed via certificate of mailing on August 12, 2004 and were received in the USPTO on August 16, 2004.

- By letter from applicant dated August 19, 2004, applicant again submitted the issue fee and publication fee by certified check with an explanation that "[t]his check replaces the first check sent to you in error."

- The first check mailed via certificate of mailing on August 12, 2004 and received in the USPTO on August 16, 2004 was returned as unpaid.

- A Notice of Abandonment was mailed on September 10, 2004.

As the first payment mailed on August 12, 2004 was returned by the bank as unpaid, the practice of the Office is to treat such returned check as though the fee for which it was intended was

never received. Accordingly, the issue fee in the instant case was not paid by the due date of August 13, 2004.

The Manual of Patent Examining Procedure, Section 711.03(c), provides a general discussion of the procedures for filing a petition to revive an abandoned application. A copy, in part, of this section is forwarded herewith for your information, which includes the forms for revival under the unavoidable and unintentional standards of 37 CFR 1.137.

Applicant is advised that the abandonment of this application may only be overcome by filing a petition to revive under 37 CFR 1.137. A petition to revive may be appropriate if applicant's failure to reply was either unavoidable or unintentional, as set forth below.

A. Failure to reply was unavoidable.

A petition to revive an abandoned application on the grounds that the failure to reply was unavoidable (37 CFR 1.137(a)) must be accompanied by: (1) the required reply, unless previously filed; (2) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(c); and (4) the $55 petition fee as set forth in 37 CFR 1.17(l). No consideration to the substance of a petition will be given until this fee is received.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable, as well as inadvertent. This must include: (1) a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable; and (2) a satisfactory showing that the cause of any delay during the time period between abandonment and filing of the petition to revive was also unavoidable. Petitioner is advised that the requirement in item (3) above is unnecessary as a condition for revival of the instant application as a terminal disclaimer is only required in those applications filed on or before June 8, 1995.

B. Failure to reply was unintentional.

If petitioner cannot provide a showing of unavoidable delay or does not wish to, petitioner may wish to seek revival of the

abandoned application on the grounds that the failure to reply was unintentional (37 CFR 1.137(b)). A petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(c) (see above discussion); and (4) the $685 petition fee as set forth in 37 CFR 1.17(m). No consideration to the substance of a petition will be given until this fee is received. The Commissioner may require additional information where there is a question whether the delay was unintentional. Again, petitioner is advised that the requirement in item (3) above is unnecessary as a condition for revival of the instant application as a terminal disclaimer is only required in those applications filed on or before June 8, 1995.

In addition, petitioner must also submit the $50 fee for the returned check along with any petition to revive this application.

It is noted that applicant herein is represented by counsel. Dual correspondence between an applicant and his/her attorney will not be undertaken. Therefore, all communications regarding this file will be directed solely to the address of record unless otherwise instructed. A courtesy copy of this letter is being mailed to applicant Bradford.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

Any questions concerning this matter may be directed to the undersigned at 571-272-3218.

Frances Hicks

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

ATTACHMENTS TO APPLICANT: MPEP Section 711.03(c) (in part)
Unavoidable Petition Form
Unintentional Petition Form
Revocation of Power of Attorney Form

cc:

Alfreda B. Bradford
P O Box 461
Glenside, PA 19038

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NOV 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Alfreda B. Bradford :
Application No. 10/299,561 : DECISION GRANTING PETITION
Filed: November 19, 2002 : UNDER 37 CFR 1.137(b)
For: ILLUMINATED IMPLEMENT :
APPARATUS

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, to accept an unintentionally delayed payment of the issue and publication fees, which were due on or before August 13, 2004 to avoid the abandonment of the 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 (issue and publication fees); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are 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 Publishing Division.

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

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AUG 1 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Alexander Keller
Application No. 10/299,574
Filed: November 19, 2002
Attorney Docket No. MENT-075

This is a decision on the petition filed August 4, 2005, to revive the above identified application under 37 CFR 1.137(a)[1] or in the alternative under 37 CFR 1.137 (b)[2].

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

A Notice to File Missing Parts was mailed February 12, 2003 and set a two (2) month shortened statutory period for reply. Since the maximum period of time obtainable for

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

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

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

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

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

[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 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 extension of time had elapsed and since no proper reply had been received, the application became abandoned on April 13, 2003. Accordingly, a Notice of Abandonment was mailed February 9, 2004.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

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[3]35 U.S.C. § 133.

[4]In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this and other patent applications and finally his failure to advise the applicants that this and other patent applications had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of the attorney of record in prosecution of the matter.[7] Since petitioners can't say for certain whether the attorney of record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the attorney of record. The series of events outlined in the petition suggest that the attorney of record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inaction.[8] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[9]

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account, No. 12-2315, has been charged in the amount of $500 for the unavoidable petition and $1500 for the unintentional petition.

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[7]See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[8]Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[9]Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); 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 (Comm'r Pat. 1891).

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

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JAN 1 4 2005

OFFICE OF PETITIONS

In re Application of: E. Neil Lewis :
Application No. 10/299,577 : NOTICE
Filed: November 19, 2002 :
Attorney Docket No. S0001-007004 :

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 file is being referred to Technology Center Art Unit 2878, to await a response to the non-final Office action mailed December 13, 2004.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Neil E. Lewis :
Application No. 10/299,577 : DECISION ON PETITION
Filed: November 19, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. S0001-007004 :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed December 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to correct the reference made to a prior –filed non-provisional such that the reference states the relationship between the non-provisional applications. A reference to a prior-filed non-provisional application was included in the first sentence of the specification following the title as required by the rules, but the reference did not state the relationship between the non-provisional applications as required by 37 CFR 1.78(a)(2)(i).

Where a proper claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed applications filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1,370.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Any questions concerning this decision on petition may be directed to Kenya A. McLaughlin at (571) 272-3222. 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 AU 2884 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.

Anthony Knight
Supervisor
Office of Petitions

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JEFFREY J HOHENSHELL
710 MEDTRONIC PARKWAY
MINNEAPOLIS MN 55432

Paper No. 8

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OFFICE OF PETITIONS

In re Application of :
David H. Cole et al. :
Application No. 10/299,582 : ON PETITION
Filed: November 18, 2002 :
Attorney Docket No. V-025 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 08, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed January 06, 2003, which set a shortened statutory period for reply of two (2) months. A four (4) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 07, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and corrected drawings; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of January 06, 2003 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

The application is being referred to the Office of Initial Patent Examination.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Seattle, WA 98101

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JAN 19 2006

OFFICE OF PETITIONS

In re Patent No. 6,729,963	:	
Issue Date: May 4, 2004	:	
Application No. 10/299,585	:	ON PETITION
Filed: November 18, 2002	:	
Patentee(s): Marvin Hlynka	:	

This is a decision on the petition filed February 10, 2005, which is being treated as a request under 37 CFR 3.81[1], to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The 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) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Timothy J. Martin
MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD CO 80226

MAILED AUG 10 2006

In re Application of: ERICKSON :
Appl. No.: 10/299621 : DECISION ON PETITION
Filed: November 18, 2002 :
For: FOOD PREPARATION STATION :

This is a decision on the request filed on March 20, 2006 by which applicant requests reconsideration of the Dismissal of Appeal mailed January 11, 2006, and acceptance of the August 24, 2005 Appeal Brief as timely. The request is construed as a petition under 35 USC 1.181 before the Technology Center Director, and no fee is required.

The petition is granted.

On January 11, 2006 a Communication Re: Appeal was promulgated by the Office indicating the Appeal Brief received August 24, 2005 was considered untimely as it allegedly lacked a petition for extension of time for four months and corresponding fee. Petitioner has submitted an evidentiary copy of the August 22, 2005 submission that includes a certificate of mailing under 37 CFR 1.8. Petitioner has also included a statement attesting to the timely mailing of the correspondence. This submission included a proper petition for four-month extension of time from April 22, 2005 to August 22, 2005 in which to file the Appeal Brief, and a check (no. 5168) for the appropriate fee. Petitioner has also submitted a copy of a return postcard, listing among its contents the petition for extension of time and check no 5168 in the amount of $795, and dated by the Office on August 24, 2005 indicating receipt of this submission. Based upon this evidence, the Appeal Brief is accepted as timely.

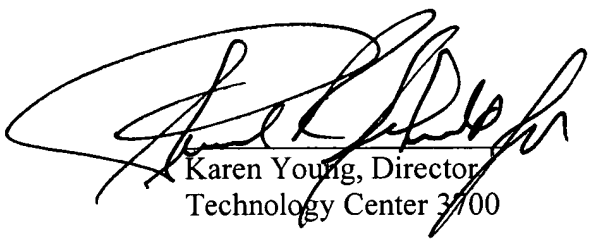
Office records do not indicate the fee for the four-month extension of time as having been paid. A courtesy call was placed to petitioner on August 1, 2006 asking that a copy of the cancelled check be faxed to the office so that payment could be properly credited. Alternatively, if the check had not cleared, the office requested approval to charge the fee to petitioner's deposit account due to the favourable decision herein. Petitioner authorized the charge of a four-month extension of time to Deposit Account NO. 13 – 1940 on August 3, 2006.

The application is being forwarded to the Head Supervisory Applications Examiner in Technology Center 3700 to charge Deposit Account NO. 13 – 1940 in the amount of $795 for a four month extension of time, to endorse the file as appropriate in the Office's PALM system to

show acceptance of the Appeal Brief received August 24, 2005 as timely, reinstate the Appeal and to forward the application to the examiner's docket for action on the Brief in due course.

Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571 – 272-4449.

PETITION GRANTED



Karen Young, Director
Technology Center 3700

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JAN 3 2005

OFFICE OF PETITIONS

In re Patent No. 6,781,679 :
Issue Date: August 24, 2004 :
Application No. 10/299,675 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 2003 :

This is a decision on the petition filed September 23, 2004, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

The file is being 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) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 2, 2007

TO SPE OF : ART UNIT 2154

SUBJECT : Request for Certificate of Correction for Appl. No. 10/299676patent no. 7080157

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

LARRY D. DONAGHUE
PRIMARY EXAMINER

SPE

2154
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. : 7,080,157 B2
APPLICATION NO. : 10/299,676
ISSUE DATE : July 18, 2006
INVENTOR(S) : Steven McCanne

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

In the Drawings
Please replace the nine sheets of drawings with the attached Formal Drawings (nine sheets)

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Hickman Palermo Truong & Becker LLP
2055 Gateway Place, Suite 550
San Jose, CA 95110

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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OIPE
PATENT & TRADEMARK
NOV 18 2005
LAP88

Deployment Example

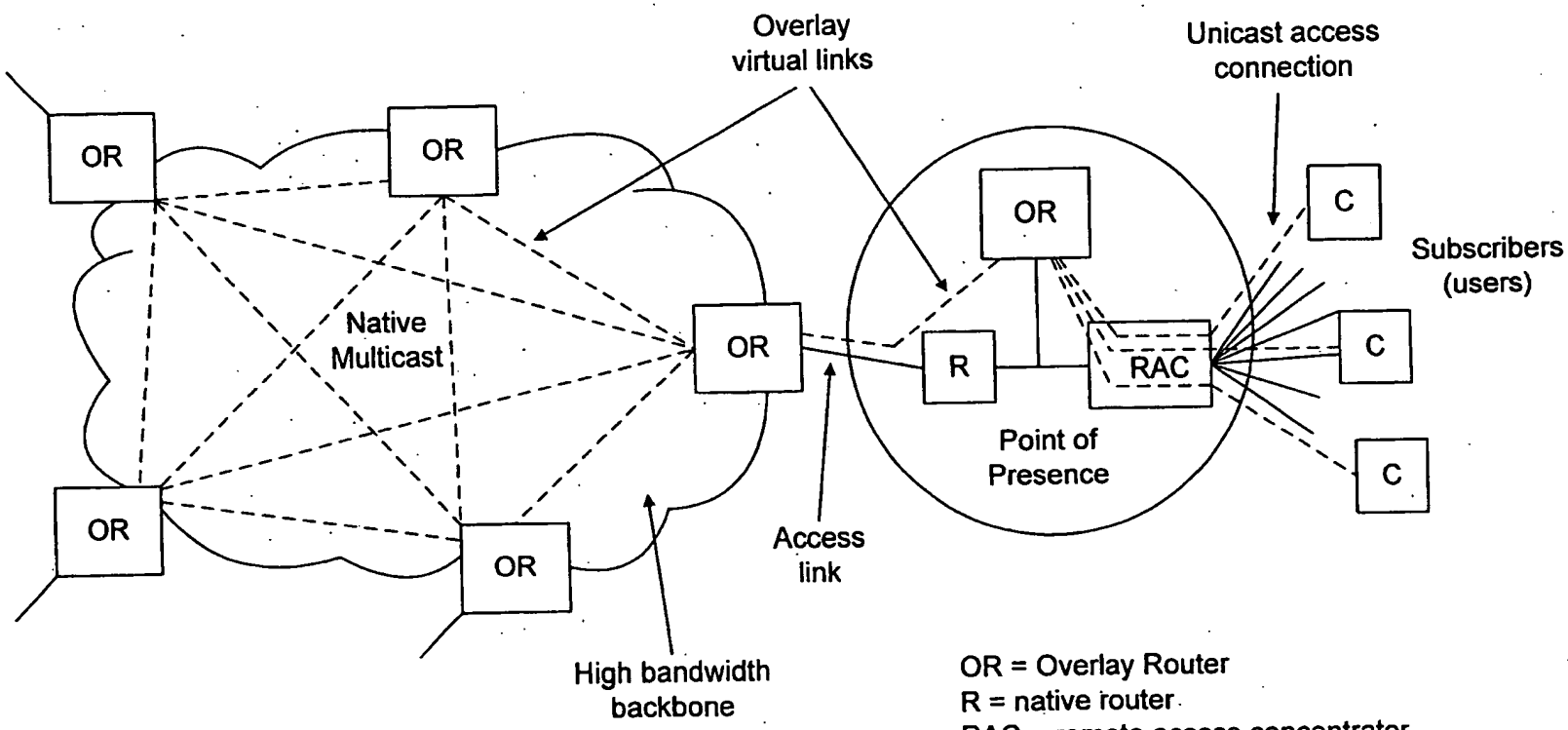


Fig. 1

NOV 17 2006

OIPE IAP98
NOV 13 2006
PATENT & TRADEMARK OFFICE

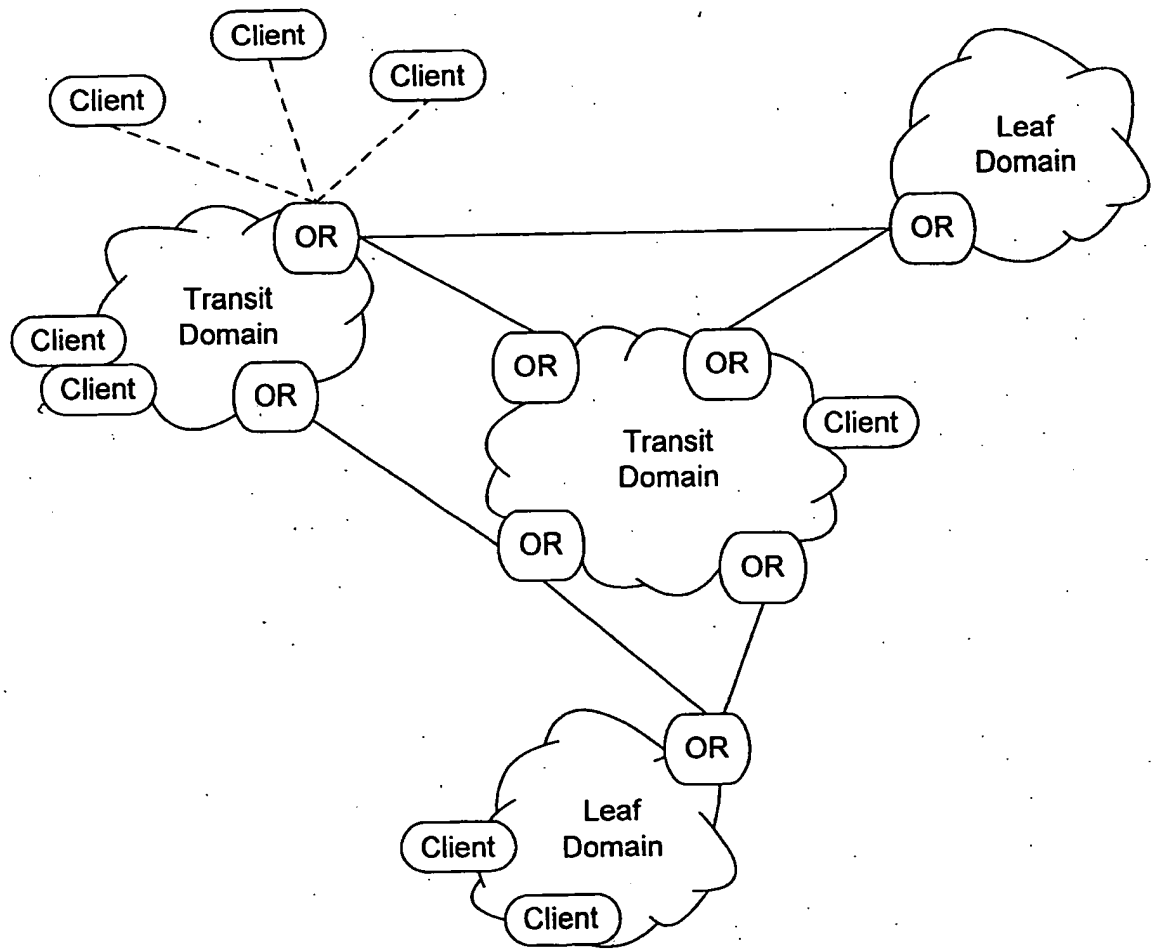


Figure 2: OMN Architecture

NOV 17 2006

OIPE
NOV 19 2006
PATENT & TRADEMARK OFFICE
IAP98

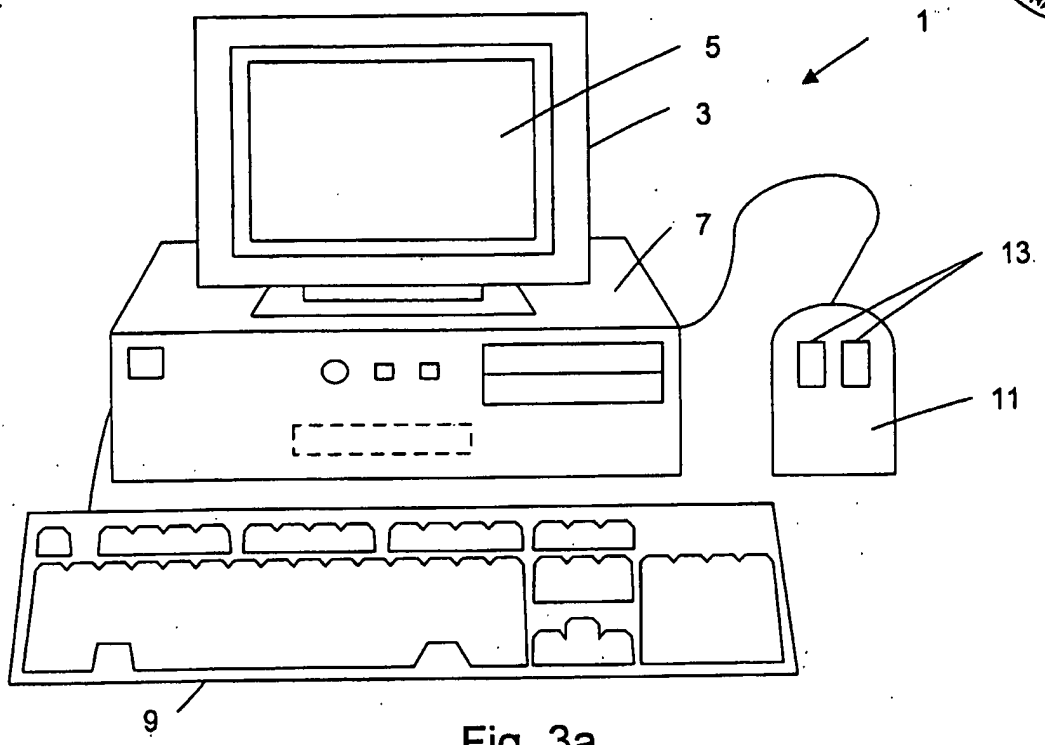
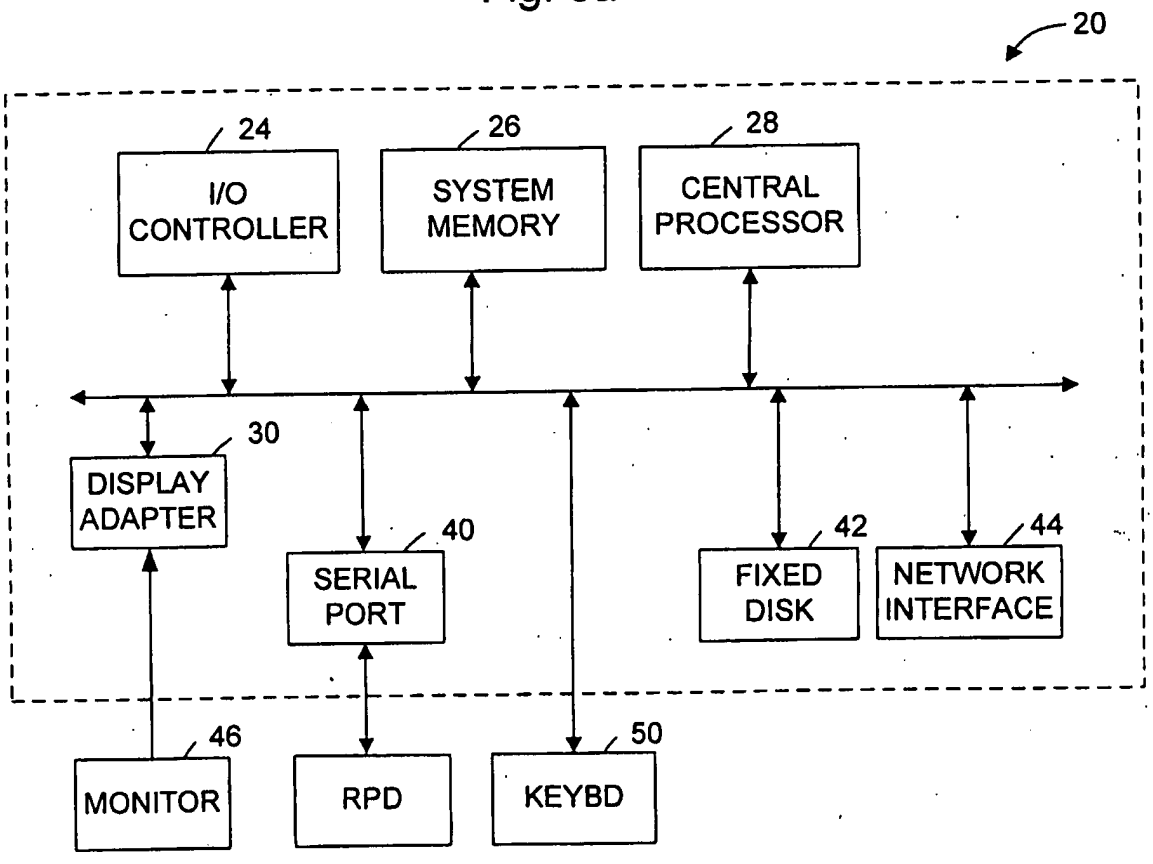


Fig. 3a



NOV 17 2006

Fig. 3b

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NOV 18 2006
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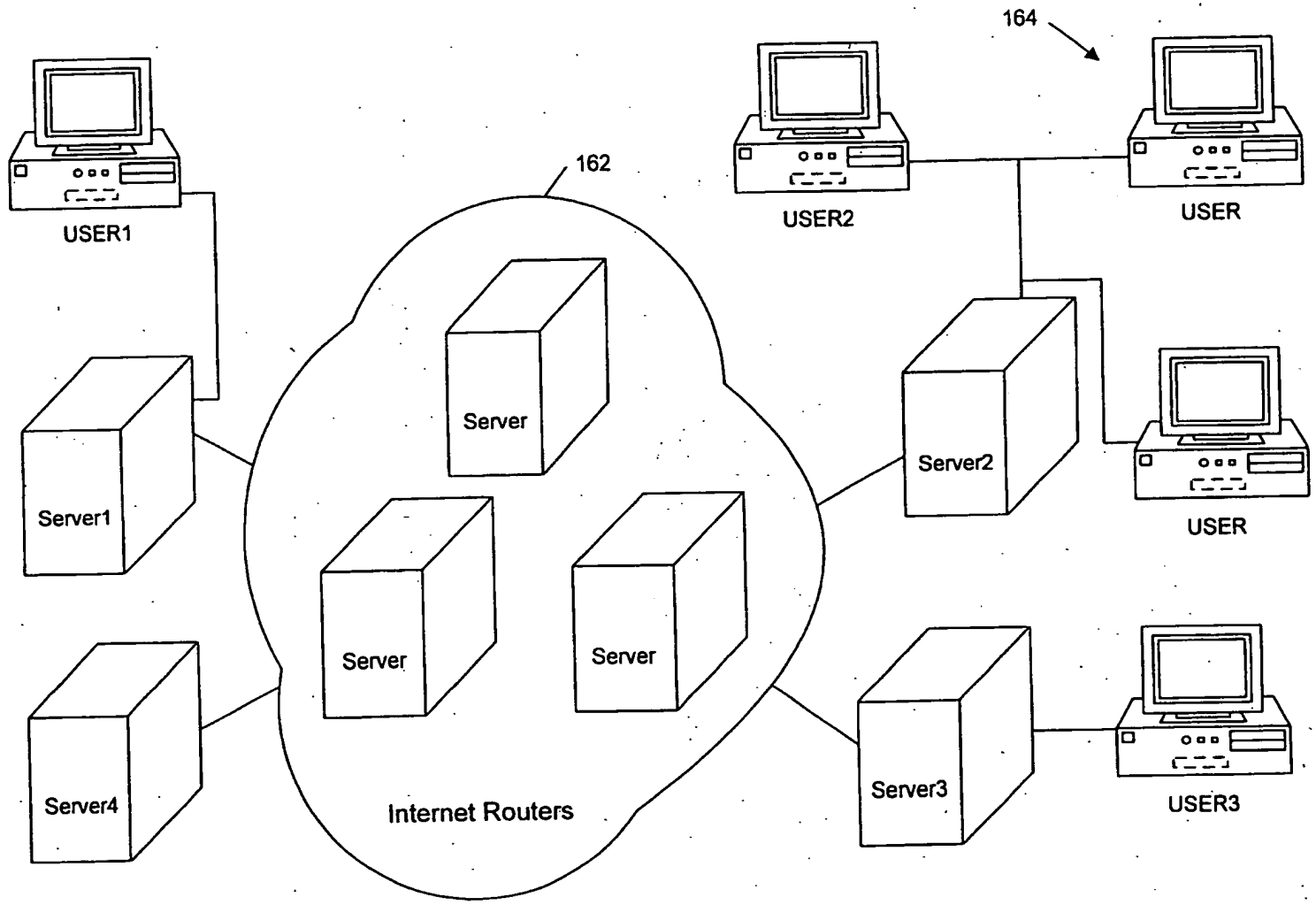

Fig. 3c

NOV 17 2006

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NOV 18 2006
IAP88
PATENT & TRADEMARK OFFICE

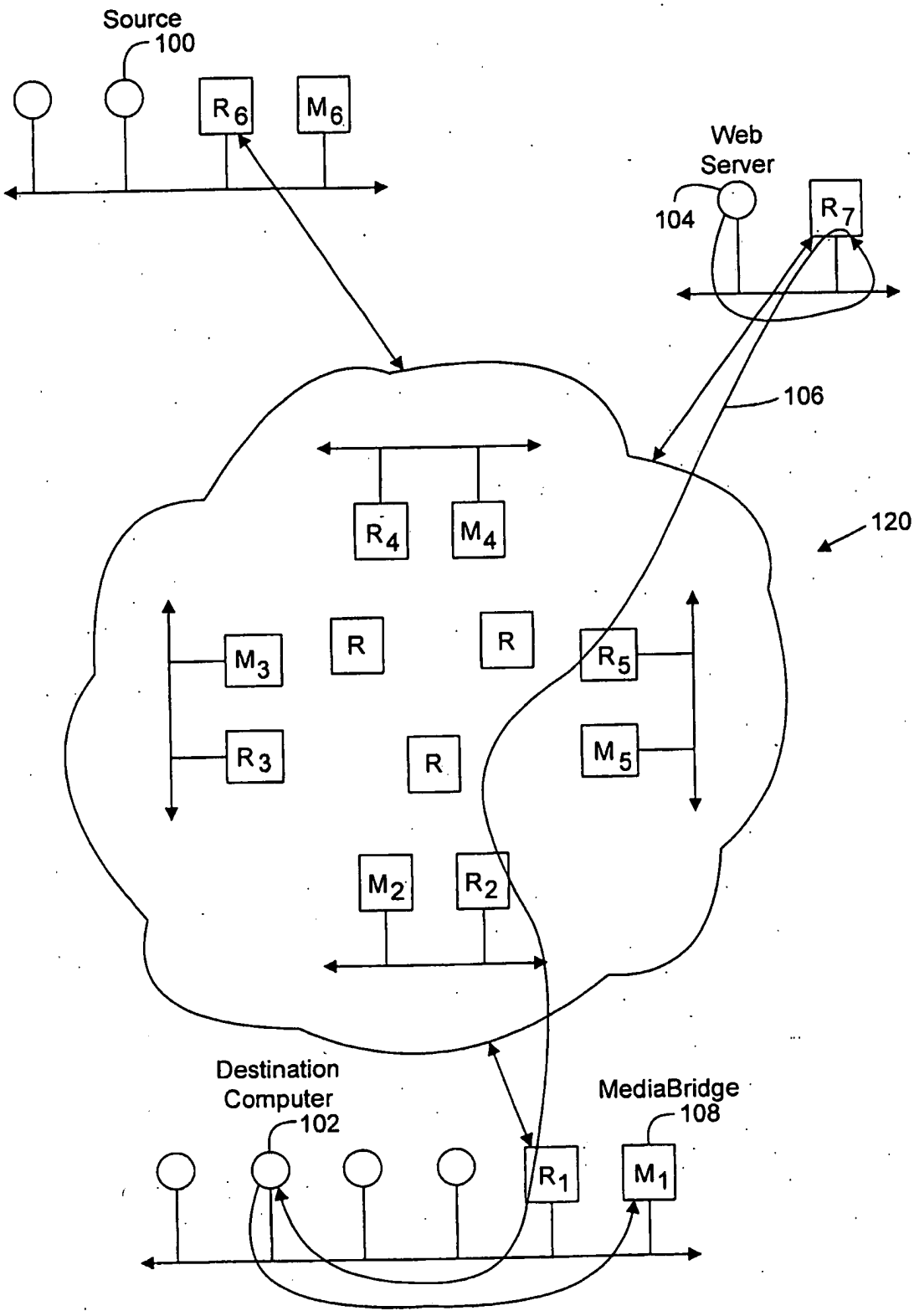

Fig. 4a

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NOV 17 2006
PATENT & TRADEMARK OFFICE

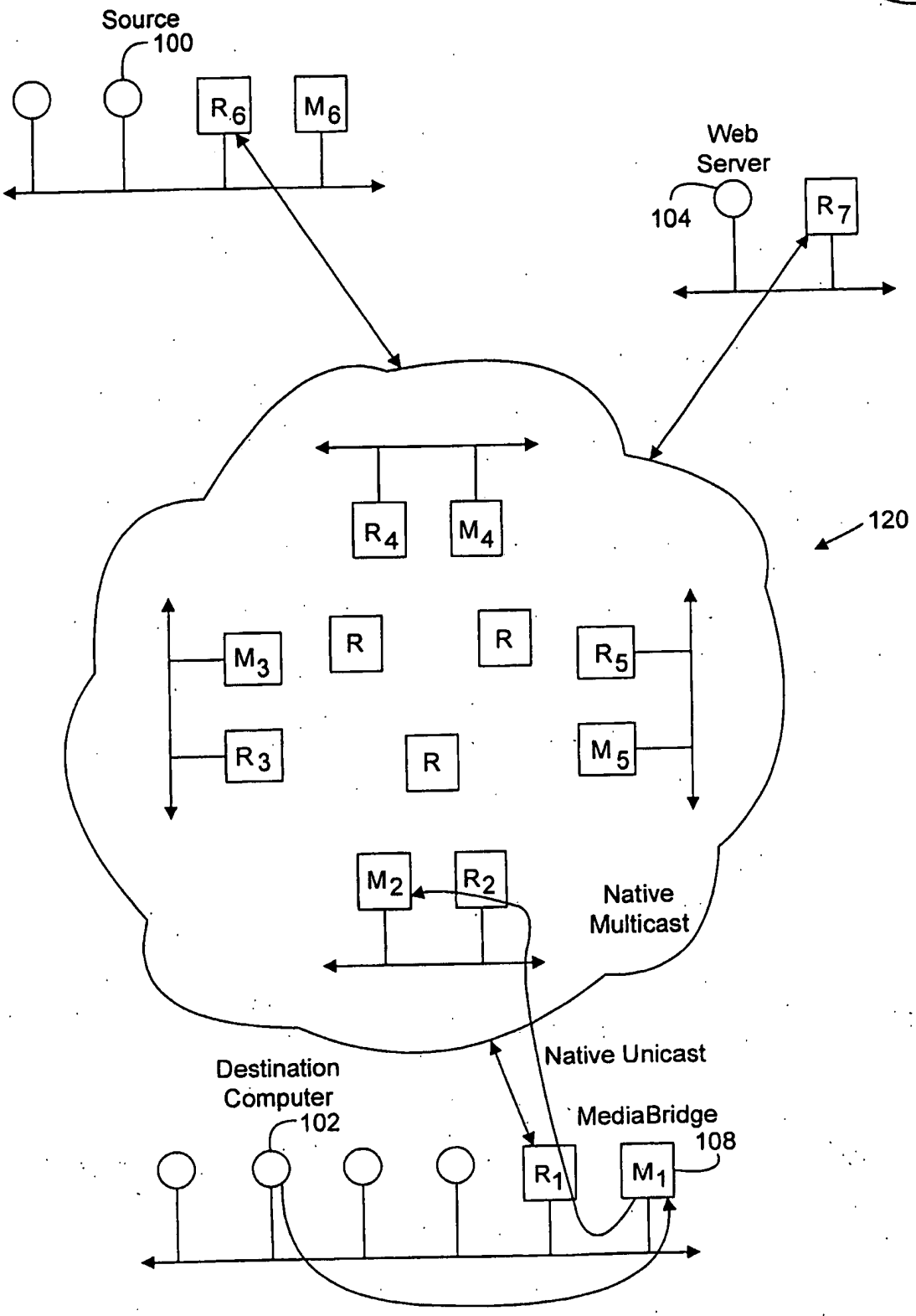

Fig. 4b

NOV 17 2006

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PATENT & TRADEMARK OFFICE

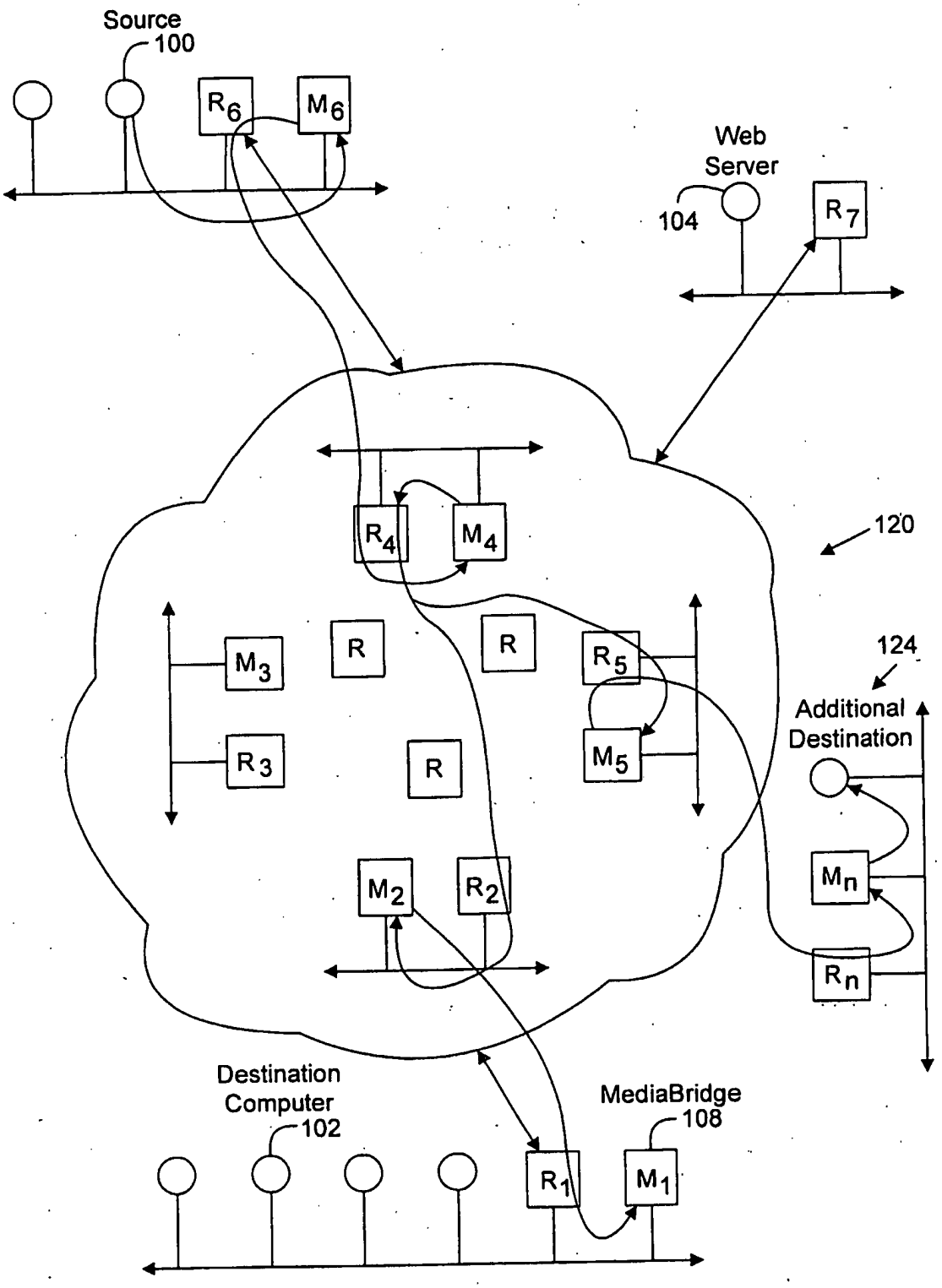

Fig. 4c

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NOV 13 2006
PATENT & TRADEMARK OFFICE

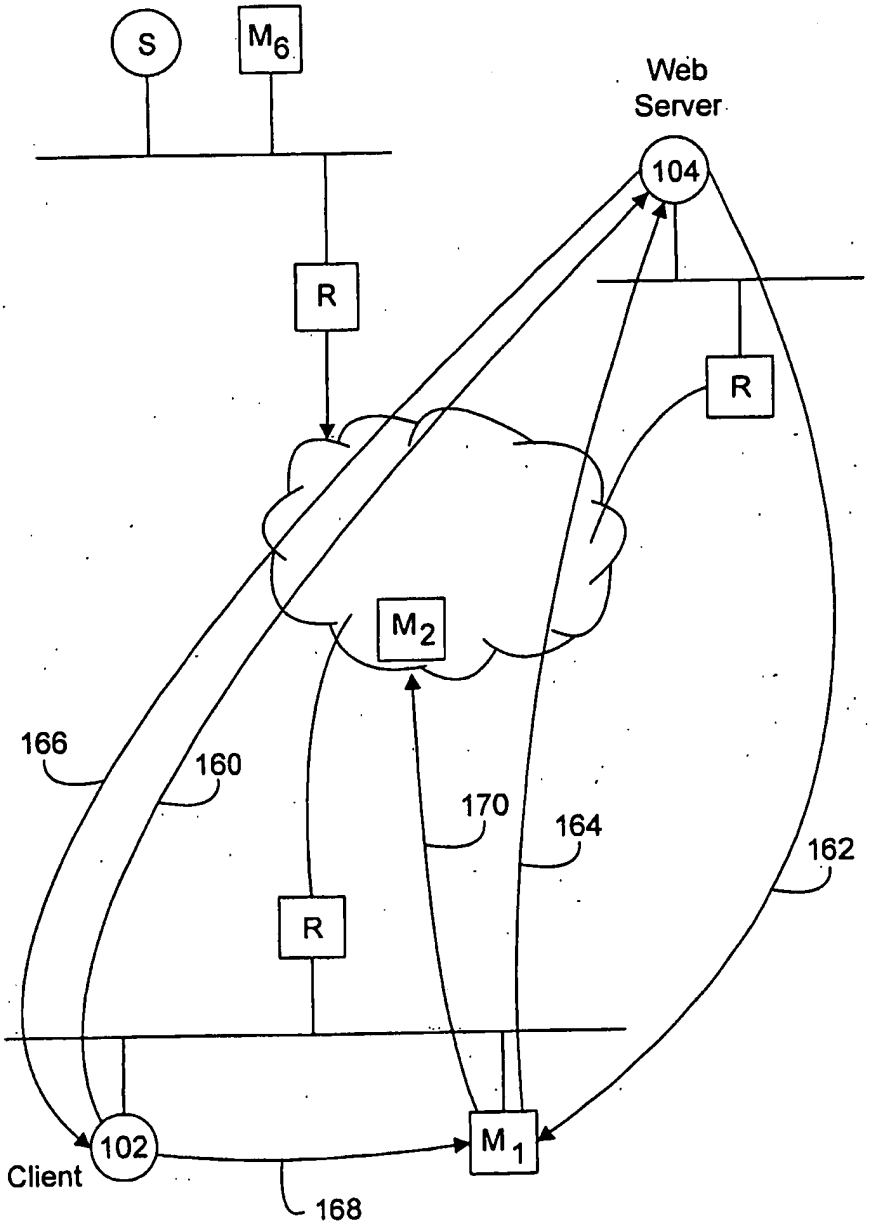

Fig. 5

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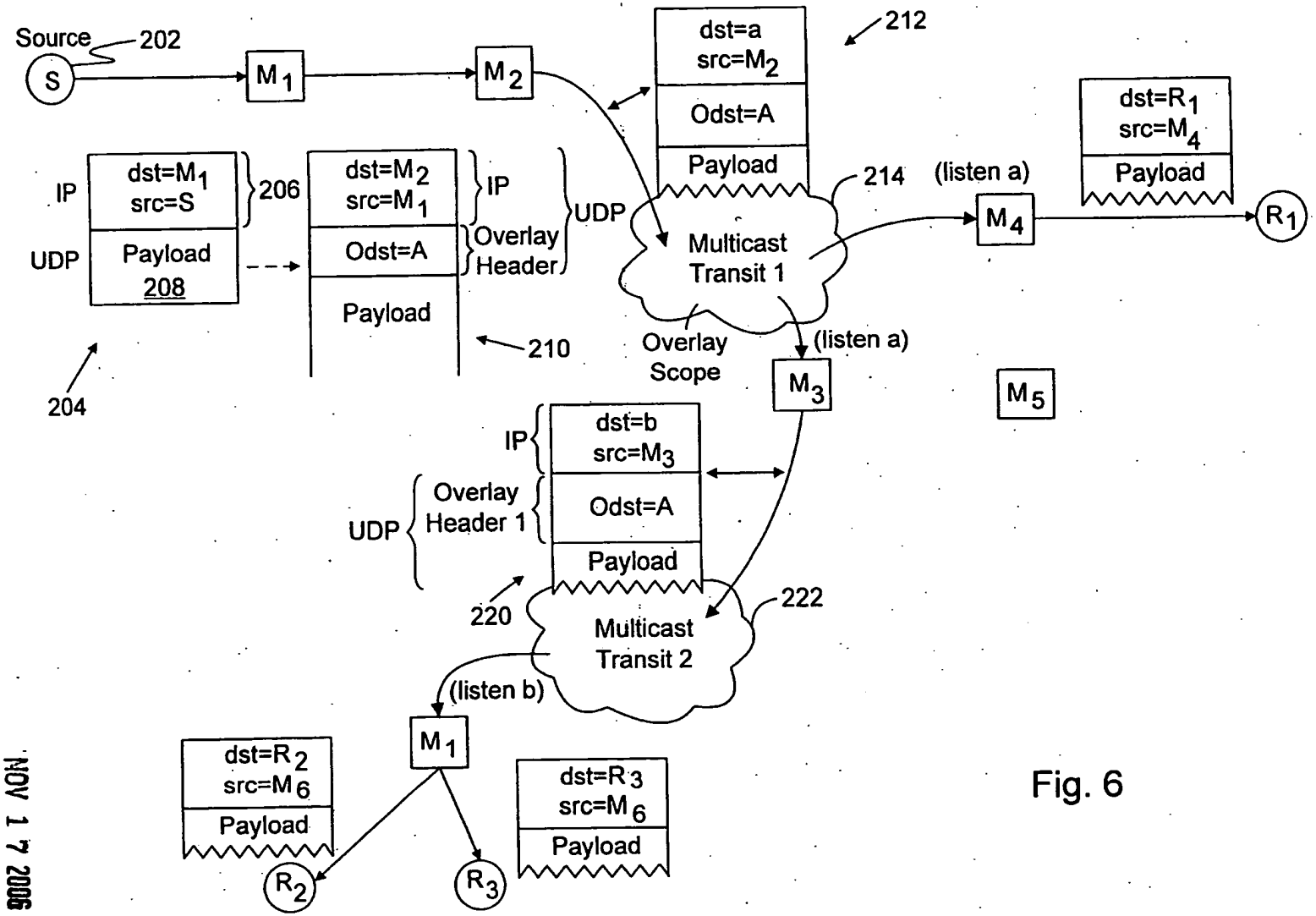

Fig. 6

NOV 17 2006

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,672,553	2004-01-06	10299691	2002-11-20	3092-335

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◯	3 ½ year	(1551)	◉	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2008-07-07
Name	Bruce H. Troxell	Registration Number	26592

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6672553
Issue Date: January 6,2004
Application No. 10299691
Filed: November 20,2002
Attorney Docket No. BHT-3092-335

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

This is a decision on the electronic petition, filed July 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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

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JUN 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,065,436	:	
Kazuo Hara	:	DECISION ON REQUEST
Issue Date: June 20, 2006	:	FOR RECONSIDERATION OF
Application No. 10/299,697	:	PATENT TERM ADJUSTMENT
Filed: November 20, 2002	:	and
Attorney Docket No. 023971-0207	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.704(d)" filed August 3, 2006. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 432 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 four hundred thirty-two (432) days.

On June 20, 2006, the above-identified application matured into U.S. Patent No. 7,065,436. The instant request for reconsideration filed August 3, 2006 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 312 days. This revised determination was calculated as follows: The initial determination of PTA of 169 days was increased by 263

days for Office delay in issuing the patent, and reduced 120 days for the filing of an Information Disclosure Statement (IDS) on May 2, 2005, after the mailing of a notice of allowance.

Patentee contends that there should have been no reduction for the filing, after the mailing of the notice of allowance, of the IDS filed on May 2, 2005. Patentee avers that this paper should not be considered a failure to engage in reasonable efforts to conclude processing or examination of the application because the IDS filed on May 2, 2005, contains a statement that each item of information contained in this IDS was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three (3) months prior to the filing of this Information Disclosure Statement and that the communication was not received by an individual designed in § 1.56(c) more than thirty days (30) days prior to the filing of this Information Disclosure Statement.

Patentee's contention is well taken, as 37 CFR 1.704(d) states:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

A review of the official record reveals that the IDS filed on May 2, 2005, contains the statement specified in 37 CFR 1.704(d). Accordingly, the 120 day reduction in patent term adjustment for applicant delay is not warranted.

In view thereof, the patent term adjustment indicated on the patent should be four hundred thirty-two (432) 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 is being referred to the Certificate of Correction Branch for issuance of a certificate of correction 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 FOUR HUNDRED THIRTY-TWO (432) days.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,065,436 B2

DATED : **June 20, 2006**

INVENTOR(S) : Kazuo Hara

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 312 days

Delete the phrase "by 312 days" and insert – by 432 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

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

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of :
Takeuchi, et al. :
Application No. 10/299,698 : ON PETITION
Filed: November 20, 2002 :
Attorney Docket No.: 230863US3 :

This decision in response to the petition, filed March 6, 2003, to accord the above-identified application a filing date of November 20, 2002.

The application was filed November 20, 2002. The Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") January 6, 2003. The Notice indicated that the application had been accorded a filing date but that page 42 of the specification appeared to have been omitted from the application filing.

Petitioner argues that the application as deposited included page 42 of the specification. Petitioner has included as proof of mailing and proof of receipt of the page in question a return postcard date stamped by the Office on November 20, 2002. Petitioner has also supplied a copy of page 42 of the specification purportedly filed with the application on November 20, 2002.

The original page 42 of the specification submitted with the application papers has not been located. However, in view of the evidence presented, the Notice is hereby WITHDRAWN and the petition to accord the application a filing date of November 20, 2002 is GRANTED

Since the original page 42 of the specification cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

The petition fee of $130.00 submitted with the instant petition is unnecessary. A refund to Deposit Account No. 15-0030 has been requested on petitioner's behalf from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 20, 2002.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 3 - 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Malcolm LECOMPTE :
Application No. 10/299,708 : DECISION ON REQUEST TO
Filed: November 20, 2002 : WITHDRAW FROM RECORD
For: DIRECT BROADCAST IMAGING :
SATELLITE SYSTEM APPARATUS AND :
METHOD FOR PROVIDING REAL-TIME,
CONTINUOUS MONITORING OF EARTH
FROM GEOSTATIONARY EARTH ORBIT

This is a decision on the request to withdraw as attorney/agent of record filed on October 1, 2003.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is **granted.*** All future correspondence will be sent to the below listed address until such a time as a proper request of change of correspondence address is filed. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Astro Vision International, Inc
12706 Young Lane
N. Potomac, MD 20878

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
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DATE: June 15, 2005

Gene M. Garner, II
STAAS & HALSEY, LLP
1201 New York Avenue, NW
Suite 700
Washington, DC 20005

Patent No: 6837489 B2
Applicant: Won-taek Kim
Issued: January 4, 2005
Title: JAM REMOVING APPARATUS MACHINE HAVING ADF FUNCTION

Request for Certificate of Correction:

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

The alleged errors purported to be in column 9, lines 40 and 63, cannot be found in the printed patent.

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

Correspondence for reconsideration concerning this matter should be filed with supporting documents, appropriate fee ($100.00) and directed to Decisions & Certificates of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificates of Correction
(703) 305-8309 or 305-1882

vt

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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MAY 30 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sang-Hak Lee et al :
Application No. 10/299,764 :
Filed: November 20, 2002 :
Attorney Docket No. 1293.1471 :

This is a decision on the petition, filed May 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 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]

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

The examiner of Technology Center AU 2629 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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MAY 30 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sang-Hak Lee et al :
Application No. 10/299,764 :
Filed: November 20, 2002 :
Attorney Docket No. 1293.1471 :

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The examiner of Technology Center AU 2629 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Mark K. Johnson
MIRUS CORPORATION
505 South Rosa Rd
Madison, WI 53719

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OFFICE OF PETITIONS

In re Application of:
WOODDELL, Christine, I., et al.
Application No.: 10/229,786
Filed: August 27, 2002
Atty's Docket No.: Mirus.029.02

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2004 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the "Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures" mailed September 20, 2002, which set a period for reply of two (2) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on November 20, 2002.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that applicants have submitted (1) the reply in the form of a response to the "Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures" mailed September 20, 2002, that is, a statement that the content of the sequence listing information recorded in computer readable form is identical to the written sequence listing; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply to the "Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures" mailed September 20, 2002 is accepted as having been unintentionally delayed.

The application file is being referred to the Office Of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office Of Petitions

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Paper No. 7

Browdy and Neimark, P.L.L.C.
Attorneys at Law
Patent and Trademark Causes
624 Ninth Street, NW
Washington, DC 20001-5303

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OCT 1 5 2003

OFFICE OF PETITIONS

In re Application of
Veronese et al.
Application No. 10/299,790
Filed: November 20, 2002
Attorney Docket No. VERONESIA

DECISION GRANTING PETITION

This is a decision on the petition filed September 22, 2003, requesting that the above-identified application be accorded a filing date of November 20, 2002, with Figure 13 as part of the original disclosure.

On November 22, 2002, applicants filed the above-identified application. On February 19, 2003, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of November 20, 2002, and advising applicants that Figure 13 appeared to be omitted. Additionally, the Notice required the submission of an oath or declaration and an abstract.

In response, on September 22, 2003, applicants filed the present petition, a request for a five-month extension of time to reply and a copy of applicants' postcard receipt acknowledging receipt of 14 sheets of drawings (Figures 1-13) and a Revocation and Power of Attorney for Application. Additionally, applicants submitted copies of Figure 13, a Revocation and Power of Attorney, and an abstract with the present petition.

Upon review of the record, Figure 13 and the Revocation and Power of Attorney, deposited on November 20, 2002, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 20, 2002, included Figure 13 and a Revocation and Power of Attorney, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 13 and the Revocation and Power of Attorney, was complete on filing and will be granted a filing date of November 20, 2002.

Accordingly, the petition is granted. The requirement for submission of Figure 13 and an oath or declaration was sent in error.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 20, 2002, using Figure 13 submitted on petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Ogilvy Renault
Suite 1600
1981 McGill College Avenue
Montreal QC H3A 2Y3 CA CANADA

MAIL

OCT 0 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Randy Balaberda
Application No. 10/299,797
Filed: November 20, 2002
For: MONITORING STABILITY OF AN ON-FREQUENCY REPEATER

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 1, 2004 under Manual of Patent Examination Procedure 708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure 708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. 1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition fails to fully meet requirement (6) inasmuch as there is no detailed discussion of the references. To state that "..none are considered to be of relevance to the patentablility of any claims of the corresponding International Patent Application No. PCT/CA2003/01755. Since the claims of PCT/CA2003/01755 are substantially identical to those of the present application, it is believed that the presently claimed invention is patentable over the cited references", does not satisfy the requirement that the petition **must** fully discuss the references, pointing out with the particularity 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Accordingly, the petition is **DENIED**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include a complete discussion of the two patents complying with item (6) above.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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MAR 1 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Ogilvy Renault
Suite 1600
1981 McGill College Avenue
Montreal QC H3A 2Y3 CA CANADA

In re Application of:
Randy Balaberda
Application No. 10/299,797
Filed: November 20, 2002
For: MONITORING STABILITY OF AN ON-FREQUENCY REPEATER

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 1, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination, as supplemented on December 6, 2004.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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WASHINGTON, D.C. 20231
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MAR 14 2003
PATENT & TRADEMARK OFFICE

JUL 30 2002

RECEIVED: 8-5-02
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of	: RESPONSE TO PETITION
Vierira, et al.	: UNDER 37 CFR 1.182
Application No. 09/908,888	: SEEKING SPECIAL
Filed: July 20, 2001	: TREATMENT OF DISCLOSURE
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure	: STATEMENTS, AND : DECISION ON PETITION : UNDER 37 CFR 1.183
Attorney Docket No. 211692US99	: SEEKING WAIVER OF : REQUIREMENTS UNDER : 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at:
http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

MAR 1 4 2003
PATENT & TRADEMARK OFFICE

TC Assignment Appendix
Bulk Filing List With TC Assignment

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
	9911493	1743
	9832354	1753
	9842735	1765
	9884981	1765
	9911702	1765
	9921910	1765
	9975930	1765
	10124460	1765
	09273929	1765
	09662390	1765
	9905110	1772
	9621771	1775
	9870830	1775
	9871958	1775
	9901109	1775
	9960402	1775
	09274268	1775
	09465623	1775
	09813779	1775
	9865446	2631
	9930171	2633
	09617640	2633
	9910032	2663
	10152783	2673
	09607239	2681
	09607420	2682
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	10125486	2811
	10128262	2811
	10141876	2811
	10145734	2811
	10150065	2811
	09607386	2811
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2061 ssus-8737-s737-ss	09766046	2811
208836US-8737-8737-99	09861636	2811
210044US-8737-8737 99	09884150	2811
210790US.-8737-8737-99	09897965	2811
210260US-8737-8737-99	09900887	2811
211327US-8737-8737-99	09905869	2811
211318US-8737-8737-99	09905935	2811
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Robert J. Spar
Director
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Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

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DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

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In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

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different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

Docket Number	Application #	Art Unit
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	9984471	1641
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By FAX: (703) 872-9005

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

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 31 2002

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JUL 30 2002

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FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT, P.C.
JUL 29 2002
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is GRANTED IN PART to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

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	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
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211723US-8737-8737-99	09911446	2829
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215295US-8737-8737-99	09983326	2829

Docket Number	Application #	Art Unit
205915US-8737-9737-99	09624803	2834
211916US-8737-8737-99	09911487	2839
217731 US-8737-8737-99	10026812	2841
	10151950	2851
217354US-8737-8737-99	10020898	2861
205972US-8737-873799	09624698	2872
205939US-8737 837-99	09669602	2873
205950U"737-8737-99	09607236	2874
205951 US-8737-8737-99	09607744	2874
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209409U$-8737-8737-99	09870836	2874
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211911 US-8737-8737-99	09911472	2874
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21209905-8737-8737-99	09918802	2874
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	9905115	3662
	9911420	3663
	09607722	3736

By FAX: (703) 872-9005

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

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22314

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SEP 30 2005

OFFICE OF PETITIONS

In re Patent of :
Liang et al. :
Patent No. 6,885,065 :
Issue Date: April 26, 2005 :
Application No. 10/299,801 :
Filing Date: November 20, 2002 :
Attorney Docket No. 230749US99 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.182, filed June 17, 2005, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The fee required for a petition under 37 CFR 1.182 is $400. Petitioner submitted $130 by credit card. Therefore, an additional $270 will be charged to petitioner's deposit account.

A fee is necessary because petitioner has not proven the original patent was lost in the mail rather than lost after its arrival at the law firm. 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. 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)(II).

The petition does not satisfy requirements (2), (3), and (4) above. Therefore, the petition fee will be retained.

The Publishing Division is directed to issue duplicate Letters Patent.

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 Files Repository.

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (571) 272-3203. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext. 139.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C-32 (FAX 703-746-4642)

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,518,758	:	
Hsin-Tang Chien	:	DECISION DISMISSING
Application No. 10/299,823	:	REQUEST FOR
Issue Date: April 14, 2009	:	RECONSIDERATION OF
Filed: November 20, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
320529196US	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 CFR § 1.705(B), filed June 15, 2009, which is properly treated pursuant to 37 CFR § 1.705(d). Patentee requests that the determination of patent term adjustment be corrected from one thousand eighty-two (1,082) days to one thousand two hundred and seventy-two (1,272) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 1,082 days.

BACKGROUND

This application was filed on November 20, 2002. A Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on July 23, 2007. On April 14, 2009, the application matured into U.S. Patent No. 7,518,758, with a revised patent term adjustment of 1082 days. The Office determined that the 610 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2]

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, 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 issue a patent within three years after the date on which the application was filed under

overlaps with the 987 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded prior to the filing of the request for continued examination. A period of adjustment of 103 days of Office delay subsequent to the filing of the request for continued examination was entered pursuant to 37 CFR 1.702(a)(2). No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 8 days, the patent issued with a revised patent term adjustment of 1,082 ((987 + 103) - 8) days.

On June 15, 2009, patentee timely submitted this request for reconsideration of patent term adjustment asserting that the correct number of days of Patent Term Adjustment is 1272 days. Specifically, patentees state that:

> The correct patent term adjustment is 1272 days. The

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35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

[2] As of the filing of the RCE on July 23, 2007, the application was pending three years and 610 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, 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:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
>
> (2) 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;

[4] A first Office action was not mailed until October 3, 2006, fourteen months and 987 days after the application filing date, November 20, 2002. Additionally, a non-final Office action was not mailed until March 5, 2008, four months and 103 days after a request for continued examination was filed on July 23, 2007.

PTO's calculated patent term adjustment is 1082 days. Applicant is entitled to an additional 190 days of patent term adjustment.

The PTO properly accounted for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 1090 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B) referred to as the "B delay." The B delay is 610 days.

The PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(1)(A)in the A delay and the B delay. The overlap is 420 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is 1090 + 610 - 420 - 8, which is 1272 days.

Excerpt taken from "Application for Patent Term Adjustment Reconsideration under 37 C.F.R. § 1.705(B)", filed June 15, 2009, p. 2.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[5] *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).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment

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[5] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), November 20, 2002, and ending on the date of filing of a request for continued examination on July 23, 2007, (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i). Thus, only the 987 days of patent term adjustment accorded prior to the filing of the request for continued examination, pursuant to 37 CFR 1.702(a)(1), is considered in determining overlap. The 103 days for Office delay under 37 CFR 1.702(a)(2) occurring subsequent to the filing of the request for continued examination is not considered.

The 610 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 987 days of patent term adjustment under 37 CFR 1.702(a)(1). 1090 (987 + 103) days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 1082 days (1090 (987 + 103) days of Office delay - 8 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/8/08

TO SPE OF : ART UNIT 2674 (2600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/299,843 Patent No.: 6,900,785

Attn: Alexander Eisen

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)
South Tower - 9A22
Palm Location 7580

*ATTN: Ok to enter changes to claims as requested in the COCIN? YES /AE/

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: Approved as no new matter is introduced in claims clarification.

SPE /ALEXANDER EISEN/ AU2617

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE /A.EISEN/ Art Unit 2617

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2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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MAR 15 2004

OFFICE OF PETITIONS

In re Application of
Terry J. Wickland, et al.
Application No. 10/299,911
Filed: November 20, 2002
Attorney Docket No. NFTIN-12 D1

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 9, 2004, 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 25, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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 2856 for further processing of the request for continued examination under 37 CFR 1.114.

/Sherry D. Brinkley/
Sherry D. Brinkley
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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411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Allen-Hoffmann et al. :
Application No. 10/299,938 : DECISION GRANTING PETITION
Filed: November 19, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 960296.99454 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 3, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on November 19, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Petitioner requests under 37 CFR 1.183 waiver of the applicable surcharge under 37 CFR 1.78(a)(3)(ii) for the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 as set forth in 37 CFR 1.17(t). In this regard, petitioner states that this waiver of the applicable fee is justified since "priority was noted in a filing receipt mailed January 7, 2003 by the U.S. Patent Office." However, the Office only noted the claim for priority of Application No. 09/769,124 on the filing receipt. Petitioner now has two additional claims for priority in the amendment submitted with the instant petition on September 3, 2004. Accordingly, the $1330.00 petition fee will not be waived. The fee will be charged to petitioner's deposit account as authorized.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482 or at (571) 272-3206 after September 28, 2004.

This application is being forwarded to Technology Center Art Unit 1648 for appropriate action on the amendment filed September 3, 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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MAY 23 2005

Karen R. Zachow
Morrison & Foerster LLP
Suite 500
3811 Valley Centre Drive
San Diego CA 92130-2332

In re Application of	:
Laurence J. Marton et al	:
Serial No.: 10/299,946	: STATUS LETTER
Filed: November 18, 2002	:
Attorney Docket No.: 376462001500	:

This is in response to applicants' attorneys' request, filed April 13, 2005, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number 571-273-8300.

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

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

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Mail Date: 04/21/2010

Applicant	: Masaki Hamamoto	: DECISION ON REQUEST FOR
Patent Number	: 7584084	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/299,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **914** 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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www.uspto.gov

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Mail Date: 05/18/2010

Applicant : Masaki Hamamoto
Patent Number : 7584084
Issue Date : 09/01/2009
Application No: 10/299,947
Filed : 11/19/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **970** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID A. JACOBS
GESMER UPDEGROVE LLP
40 BROAD STREET
BOSTON, MA 02109

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AUG 22 2005

OFFICE OF PETITIONS

In re Application of :
Alexander Keller :
Application No. 10/299,954 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. MENT-076 :

This is a decision on the petition filed August 4, 2005, to revive the above identified application under 37 CFR 1.137(a)[1] or in the alternative under 37 CFR 1.137 (b)[2].

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

A Notice to File Missing Parts was mailed February 10, 2003 and set a two (2) month shortened statutory period for reply. Since the maximum period of time obtainable for

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

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[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 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 extension of time had elapsed and since no proper reply had been received, the application became abandoned on April 11, 2003. Accordingly, a Notice of Abandonment was mailed February 5, 2004.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

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[3] 35 U.S.C. § 133.

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this and other patent applications and finally his failure to advise the applicants that this and other patent applications had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of the attorney of record in prosecution of the matter.[7] Since petitioners can't say for certain whether the attorney of record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the attorney of record. The series of events outlined in the petition suggest that the attorney of record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inaction.[8] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[9]

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account, No. 12-2315, has been charged in the amount of $500 for the unavoidable petition and $1500 for the unintentional petition.

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[7] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[8] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[9] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); 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 (Comm'r Pat. 1891).

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID A. JACOBS
GESMER UPDEGROVE LLP
40 BROAD STREET
BOSTON, MA 02109

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AUG 22 2005

OFFICE OF PETITIONS

In re Application of :
Alexander Keller :
Application No. 10/299,955 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. MENT-077 :

This is a decision on the petition filed August 4, 2005, to revive the above identified application under 37 CFR 1.137(a)[1] or in the alternative under 37 CFR 1.137 (b)[2].

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

A Notice to File Missing Parts was mailed February 10, 2003 and set a two (2) month shortened statutory period for reply. Since the maximum period of time obtainable for

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

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

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

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

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

[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 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 extension of time had elapsed and since no proper reply had been received, the application became abandoned on April 11, 2003. Accordingly, a Notice of Abandonment was mailed February 6, 2004.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

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[3]35 U.S.C. § 133.

[4]In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this and other patent applications and finally his failure to advise the applicants that this and other patent applications had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of the attorney of record in prosecution of the matter.[7] Since petitioners can't say for certain whether the attorney of record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the attorney of record. The series of events outlined in the petition suggest that the attorney of record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inaction.[8] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[9]

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account, No. 12-2315, has been charged in the amount of $500 for the unavoidable petition and $1500 for the unintentional petition.

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[7] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[8] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[9] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); 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 (Comm'r Pat. 1891).

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID A. JACOBS
GESMER UPDEGROVE LLP
40 BROAD STREET
BOSTON, MA 02109

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AUG 22 2005

OFFICE OF PETITIONS

In re Application of :
Alexander Keller :
Application No. 10/299,956 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. MENT-074 :

This is a decision on the petition filed August 3, 2005, to revive the above identified application under 37 CFR 1.137(a)[1] or in the alternative under 37 CFR 1.137 (b)[2].

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

A Notice to File Missing Parts was mailed February 10, 2003 and set a two (2) month shortened statutory period for reply. Since the maximum period of time obtainable for

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

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[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 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 extension of time had elapsed and since no proper reply had been received, the application became abandoned on April 11, 2003. Accordingly, a Notice of Abandonment was mailed February 4, 2004.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

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[3] 35 U.S.C. § 133.

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this and other patent applications and finally his failure to advise the applicants that this and other patent applications had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of the attorney of record in prosecution of the matter.[7] Since petitioners can't say for certain whether the attorney of record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the attorney of record. The series of events outlined in the petition suggest that the attorney of record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inaction.[8] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[9]

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account, No. 12-2315, has been charged in the amount of $500 for the unavoidable petition and $1500 for the unintentional petition.

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[7] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[8] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[9] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); 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 (Comm'r Pat. 1891).

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

DAVID A. JACOBS
GESMER UPDEGROVE LLP
40 BROAD STREET
BOSTON, MA 02109

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Alexander Keller :
Application No. 10/299,958 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. MENT-072 :

This is a decision on the petition filed August 3, 2005, to revive the above identified application under 37 CFR 1.137(a)[1] or in the alternative under 37 CFR 1.137 (b)[2].

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

A Notice to File Missing Parts was mailed February 10, 2003 and set a two (2) month shortened statutory period for reply. Since the maximum period of time obtainable for

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

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[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 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 extension of time had elapsed and since no proper reply had been received, the application became abandoned on April 11, 2003. Accordingly, a Notice of Abandonment was mailed February 4, 2004.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

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[3]35 U.S.C. § 133.

[4]In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this and other patent applications and finally his failure to advise the applicants that this and other patent applications had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of the attorney of record in prosecution of the matter.[7] Since petitioners can't say for certain whether the attorney of record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the attorney of record. The series of events outlined in the petition suggest that the attorney of record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inaction.[8] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[9]

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account, No. 12-2315, has been charged in the amount of $500 for the unavoidable petition and $1500 for the unintentional petition.

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[7] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[8] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[9] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); 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 (Comm'r Pat. 1891).

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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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DAVID A. JACOBS
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40 BROAD STREET
BOSTON, MA 02109

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Alexander Keller :
Application No. 10/299,959 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. MENT-073 :

This is a decision on the petition filed August 3, 2005, to revive the above identified application under 37 CFR 1.137(a)[1] or in the alternative under 37 CFR 1.137 (b)[2].

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

A Notice to File Missing Parts was mailed February 10, 2003 and set a two (2) month shortened statutory period for reply. Since the maximum period of time obtainable for

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

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

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

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

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

[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 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 extension of time had elapsed and since no proper reply had been received, the application became abandoned on April 11, 2003. Accordingly, a Notice of Abandonment was mailed February 4, 2004.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

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[3]35 U.S.C. § 133.

[4]In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this and other patent applications and finally his failure to advise the applicants that this and other patent applications had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of the attorney of record in prosecution of the matter.[7] Since petitioners can't say for certain whether the attorney of record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the attorney of record. The series of events outlined in the petition suggest that the attorney of record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inaction.[8] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[9]

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account, No. 12-2315, has been charged in the amount of $500 for the unavoidable petition and $1500 for the unintentional petition.

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[7] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[8] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[9] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); 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 (Comm'r Pat. 1891).

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

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

Mail Date: 04/20/2010

Applicant	: Ashish Agrawal	: DECISION ON REQUEST FOR
Patent Number	: 7599856	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/299,963	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1916** 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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KNOBBE MARTENS OLSON & BEAR LLP
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FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

Applicant : Ashish Agrawal
Patent Number : 7599856
Issue Date : 10/06/2009
Application No: 10/299,963
Filed : 11/19/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1950** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Mark Hunter	: DECISION ON REQUEST FOR
Patent Number	: 7599730	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/299,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1557** 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
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 13

McHale & Slavin, P. A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of :
George Jackowski :
Application No. 10/299,977 : ON PETITION
Filed: November 18, 2002 :
Attorney Docket No. 2132.127 :

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

The petition is **GRANTED**.

The application became abandoned for failure to submit a timely reply to a non-final Office action.

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

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

The application file is being forwarded to Technology Center 1600.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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

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SEP 22 2003

OFFICE OF PETITIONS

In re Application of
Bernon, Robert, Robert & Drevet
Application No. 10/299,999
Filed: November 20, 2002
Attorney Docket No. 2898-107
For: APPARATUS AND METHOD FOR THE HEAT TREATMENT OF LIGNOCELLULOSIC MATERIAL

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed July 24, 2003.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on November 20, 2002 without an executed oath or declaration. Accordingly, on December 24, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on July 24, 2003, a petition for a five month extension of time and required fee, a declaration executed by the President of PCI Industries Inc., a company with alleged proprietary interest in the invention, the surcharge, application filing fees, the petition fee, and the instant petition were filed. A declaration of facts of Luc Berube, an employee of patent agents for PCI Industries, Inc., accompanies the petition. Mr. Berube sets forth the last known address of each inventor and explains that each inventor was mailed a complete copy of the application as filed on July 14, 2003, but the inventors did not respond to the request that they sign the oath or declaration for the patent application prior to the deadline for response, as set in the July 14, 2003 letter.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (5) set forth above.

As to item (5), Rule 47 applicant failed to show or provide proof that PCI Industries Inc. has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventors and the Rule 47(b) applicant (company), a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

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

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of
Bernon, Robert, Robert & Drevet
Application No. 10/299,999
Filed: November 20, 2002
Attorney Docket No. 2898-107
For: APPARATUS AND METHOD FOR THE HEAT TREATMENT OF LIGNOCELLULOSIC MATERIAL

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(a)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed December 19, 2003, which is being treated as a petition under 37 CFR 1.47(a).[1]

Petitioners have shown that the non-signing inventors have constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the original declaration of facts of Luc Berube, an employee of patent agents for PCI Industries, Inc., filed with the July 24, 2003 petition, sets forth the last known address of each inventor and explains that each inventor was mailed a complete copy of the application on July 14, 2003, but the inventors did not respond to the request that they sign the oath or declaration for the patent application prior to the deadline for response, as set in the July 14, 2003 letter. As previously stated, Inventor Bernon has since signed a new declaration. The other inventors still have not executed and returned their copies of the declaration as of December 19, 2003, according to Mr. Berube. 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). The petition under 37 CFR 1.47(a) is **GRANTED**. This application is hereby accorded Rule 1.47(a) status.

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

---

[1] Previously non-signing joint inventor Bernon has signed a new declaration. Petitioners are reminded that when one joint inventor signs, the provisions of 37 CFR 1.47(a) apply. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). MPEP 409.03(b)

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERNARD ROBERT
LA FREYDE
YSSINGEAUX
FRANCE 43200

COPY MAILED

JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Bernon, Robert, Robert & Drevet :
Application No. 10/299,999 :
Filed: November 20, 2002 : LETTER
Attorney Docket No. 2898-107 :
For: APPARATUS AND METHOD FOR :
THE HEAT TREATMENT OF :
LIGNOCELLULOSIC MATERIAL :

Dear Mr. Robert:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FABRICE ROBERT
LE BOURG
BESSAMOREL
FRANCE 43200

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Bernon, Robert, Robert & Drevet :
Application No. 10/299,999 :
Filed: November 20, 2002 : LETTER
Attorney Docket No. 2898-107 :
For: APPARATUS AND METHOD FOR :
THE HEAT TREATMENT OF :
LIGNOCELLULOSIC MATERIAL :

Dear Inventor. Robert:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JACKY DREVET
RULE DU MIDI
SAINT-JUST MALMONT
FRANCE 43240

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Bernon, Robert, Robert & Drevet :
Application No. 10/299,999 :
Filed: November 20, 2002 : LETTER
Attorney Docket No. 2898-107 :
For: APPARATUS AND METHOD FOR :
THE HEAT TREATMENT OF :
LIGNOCELLULOSIC MATERIAL :

Dear Inventor Drevet:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

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FEB 18 2005

OFFICE OF PETITIONS

MICHAEL E. WEVER
NELSON MULLINS RILEY & SEARBOROUGH
P.O. BOX 11070
COLUMBIA SC 29211

In re Application of	:	
Robert L. Burchette	:	
Application No. 10/300,010	:	ON PETITION
Filed: November 19, 2002	:	
Attorney Docket No. 18654-09000	:	

This is a decision on the petition, filed February 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 January 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2876 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date :February 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) :Robert L. Burchette
Application No. :10/300,010
Filed :November 19, 2002

The above-identified application has been assigned Patent No. 6,857,563 and an issue date of February 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 February 22, 2005:

"All reference to Patent No. 6,857,563 to Robert L. Burchette of South Carolina for TRANSACTION CARD SYSTEM HAVING SECURITY AGAINST UNAUTHORIZED USAGE appearing in the Official Gazette of February 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

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, N.W.
WASHINGTON, DC 20001

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DEC 16 2005

OFFICE OF PETITIONS

In re Application of :
Kazuhito Yokomori :
Application No. 10/300,012 : ON PETITION
Filed: November 20, 2002 :
Attorney Docket No. YOKOMORI=10 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed May 3, 2005. Accordingly, this application became abandoned on August 4, 2005.

The file is being forwarded to Technology Center 2800 for review of the "Response" filed December 8, 2005, *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

ROBINSON & POST, LLP
NORTH DALLAS BANK TOWER, SUITE 575
12900 PRESTON ROAD, LB-41
DALLAS, TX 75230

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AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Strnad, Richard :
Application No. 10/300,037 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. STRN-002 :

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

The petition is **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 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 June 21, 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 approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

RICHARD K. ROBINSON
SUITE 575
NORTH DALLAS BANK TOWER
12900 PRESTON ROAD, LB-41
PLANO TX 75230

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SEP 23 2004

OFFICE OF PETITIONS

In re Application of :
Richard Strnad :
Application No. 10/300,044 : DECISION GRANTING PETITION
Filed: November 19, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. STRN-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the drawings and the abstract; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of April 3, 2003 is accepted as having been unintentionally delayed.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 102904

Richard K. Robinson
ROBINSON & POST, LLP.
North Dallas Bank Tower, Suite 575
12900 Preston Road, LB041
Dallas, TX 75230

DEC 2 2004

In re Application of:
Richard J. Strnad
Serial No.: 10/300,044
Filed: November 19, 2002
Attorney Docket No.: **STRN-081**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed January 30, 2003.

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

The request meets all the above stated requirements. The request was signed by Richard K. Robinson , on behalf of himself and all the attorneys/agents of record. There is at least thirty (30) days remaining 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.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Richard J. Strnad, at the below address, until otherwise notified by applicant.

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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Richard Strnad
2524 Preston Road, #204
Plano, TX 75093

UNITED STATES 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 : 7-6-07

Patent No.: 7,079,107 B2
Patent Issued : July 18, 2006
Inventor(s): Shiro Miyake
Title: LIQUID CRYSTAL DISPLAY DEVICE
Docket No.: Re: Request for Certificate of Correction

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

The alleged error in column 6, line 8 is in fact a change made by the examiner and considered to be in accordance with the permissible amendments enumerated in MPEP. 1302.04

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

Anatoly Frenkel
Ware, Fressola, Van Der Sluys & Adolphson
755 Main Street, P.O. Box 224
Monroe, Connecticut 06468

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/28/09

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10300055 Patent No.: 7433389 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 Director's/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: ok to make changes

Daniel C. Murphy 2611

PAGE 1/1 * RCVD AT 4/29/2009 6:22:33 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2709990 * CSID:7033055679 * DURATION (mm-ss):00-42

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OFFICE OF PETITIONS

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

In re Patent No. 7,433,389 :
Issued: October 7, 2008 :
Application No. 10/300,055 : PATENT TERM ADJUSTMENT
Filed: November 20, 2002 :
Dkt. No.: 23718-022001/ADI1-08-043A :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed November 24, 2008.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,433,389 on October 7, 2008. The patent issued with a PTA 1,028 days. The 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). Patentees request that the adjustment be increased from 1,028 days to 1,698 days.

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 contend that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees' calculation of adjustment asserts that the following adjustments do not overlap: a three year delay by the Office, pursuant to 37 CFR 1.703(b), of 788 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a)(1), of 934 days. The 788-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 20, 2002, and the patent having been issued on October 7, 2008. Patentees assert that in addition to this 788-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a)(1) of 934 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 24 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 and the period of examination delay, to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that only a portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1,722 days (deemed by applicants to be the sum of the period of three year delay (1,052 days) and the period of examination delay (934 days), reduced by 264 days of overlap). As such, patentees assert entitlement to a patent term adjustment of 1,698 days (1,052 days *plus* 934 days *less* 264 days of overlap *less* 24 days of applicant delay).

The Office agrees that at the time of issuance of the patent, October 7, 2008, the application was pending three years and 1,052 days after its filing date. The three years delay commences the day after the date that is three years after the date that an application is filed, and ends the date that the patent issues, notwithstanding any periods of time excluded pursuant to U.S.C. 154(b)(1)(B)(i)-(iii). The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 934 days is correct. At issue is whether patentees should accrue an additional 1,052 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 934 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 934 days of examination delay overlaps with the period of delay of 1,052 days delay in issuance of the patent. 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)(1)(A) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(B) is the entire period during which the application was pending before the Office, November 20, 2002, to the date the patent issued on October 7, 2008. Prior to the issuance of the patent, 934 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 934 days of examination delay overlap with the 1,052 days of Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 1,052 days. The Office did not delay 1,052 days and then delay an additional 934 days. Accordingly, as the 934 days attributable to the examination delay overlaps with the 1,052 days of delay in the issuance of the patent, the actual period of delay, 1,052 days, was entered.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required application fee of $200.00. See, 37 CFR 1.18(e). No additional fees are required.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

[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).

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CHOATE HALL & STEWART LLP
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of :
Alfredo Riviere et al :
Application No. 10/300,057 : DECISION GRANTING PETITION
Filed: November 20, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2000560-0029 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the nonfinal Office action of April 9, 2004, which set an extendible three month shortened statutory period for reply. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 10, 2004. A Notice of Abandonment was mailed on November 16, 2004.

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

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 and Response to Office Action;" (2) the petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of April 9, 2004 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 3724 for appropriate action on the concurrently filed amendment.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTN: MAURICE E. GAUTHIER
SAMUELS, GAUTHIER & STEVENS
SUITE 3300
225 FRANKLIN STREET
BOSTON MA 02110

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JUL 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Michael T. Shore et al :
Application No. 10/300,060 : ON PETITION
Filed: November 20, 2002 :
Attorney Docket No. D-1184(CIP) :

This is a decision on the petition, filed July 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3682 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : July 23, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/300,060**

Applicant(s) : Michael T. Shore et al
Application No. : 10/300,060
Filed : November 20, 2002

The above-identified application has been assigned Patent No. 6,769,810 and an issue date of August 3, 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 August 3, 2004:

"All reference to Patent No. 6,769,810 to Michael T. Shore et al of Massachusetts for LAYING HEAD BEARING WITH OFFSET PRELOADING appearing in the Official Gazette of August 3, 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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Director's Office
Office of Patent Publication

GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
BOSTON, MA 02110

In re Application of :
SHORE, T. MICHAEL, et al. :
Application No. 10/300,060 :
Filed: November 20, 2002 :
Attorney's Docket No. D-1184(CIP) :

The above-identified application is abandoned for applicant's failure to timely pay the required issue fee and publication fee as required in the Notice Of Allowance and Fee(s) Due (Notice) mailed September 29, 2004.

The Office of Patent Publication (PUBS), in response to the Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b), received January 30, 2006, mailed a Notice Of Rescinded Abandonment on February 2, 2006. However, PUBS was not delegated by the Director/Commissioner to revive such petitions. The Office of Petitions has been delegated to handle petition for revival under 37 CFR 1.137.

The Notice of Rescinded Abandonment is hereby **VACATED**.

A proper Decision On Petition by the deciding official in the Office of Petitions will be forthcoming.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
T. Michael Shore et al : DECISION ON PETITION
Application No. 10/300,060 : UNDER 37 CFR 1.137(b)
Filed: November 20, 2002 :
Attorney Docket No. D-1184(CIP) :

This is a decision on the petitions under 37 CFR 1.137(b), filed January 30, 2006 and March 16, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed September 29, 2004. A Notice of Abandonment was mailed on January 25, 2006.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on May 5, 2004, with the issue and publication fees being due on or before August 5, 2004. The issue and publication fees in reply were timely paid on May 27, 2004. Thereafter, on July 22, 2004, a petition to withdraw from issue, a Request for Continued Examination under 37 CFR 1.114, and an Information Disclosure Statement were filed. The petition to withdraw from issue was granted in a decision mailed on July 23, 2004, which contained the following caveat:

> 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).

Also, the Notice of Allowance and Fee(s) Due further advised applicant that, whether there was no indication of a fee being due, a request to apply the previously paid issue fee must be returned in order to avoid the abandonment of the application. The record fails to evidence the filing of such a request. Therefore, this application became abandoned by operation of law for failure to timely request that the previously paid issue fee (plus any balance due) be applied toward the new Notice. Accordingly, this is a proper petition to revive under the provisions of 37 CFR 1.137(b).

The petition satisfies the requirements for a grantable petition under the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Notice of September 29, 2004 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement 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.

As authorized, the $70 balance due for the issue fee will be charged to petitioner's deposit account.

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

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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DEC 05 2007

ELMORE PATENT LAW GROUP, PC
209 MAIN STREET
N. CHELMSFORD MA 01863

In re Application of :
David A. Edwards et al :
Serial No.: 10/300,070 : PETITION DECISION
Filed: November 20, 2002 :
Attorney Docket No.: 2685.2006US2 :

This is in response to the petition under 37 CFR 1.181, filed October 22, 2007, requesting entry of an amendment after Final rejection, denied entry by the examiner.

BACKGROUND

A review of the relevant file history shows that following a response to a non-Final rejection in which all claims were canceled and new claims 127-136 were added, the examiner mailed a Final Office action to applicants on June 21, 2007, rejecting claims 127-136 under 35 U.S.C. 112, second paragraph, mainly objecting to indefiniteness in claim 127. Claims 127-134 and 136 were rejected under 35 U.S.C. 102(e) as anticipated by Shefer et al. Claims 127-129, 133 and 135-136 were rejected under 35 U.S.C. 102(b) as anticipated by Edwards et al. Claims 127-136 were also rejected under 35 U.S.C. 103(a) as unpatentable over Shefer et al in view of Edwards et al. and claims 130-132 were rejected under 35 U.S.C. 103(a) as unpatentable over Edwards et al alone. The examiner stated that applicants' amendments necessitated any new ground of rejection.

Applicants filed an amendment after Final Office action on September 20, 2007, amending claim 127 by incorporating the limitation of claim 132 therein and cancelling claim 132. The rejections of record were also addressed appropriately.

The examiner mailed an Advisory Action to applicants on September 26, 2007, indicating non-entry of the amendment would raise new issues which would require further consideration or search, referring to the incorporation of percentage by weight of nanoparticles into claim 127.

A Notice of Appeal was filed on October 22, 2007, and this petition seeking to have the amendment of September 20, 2007, entered.

DISCUSSION

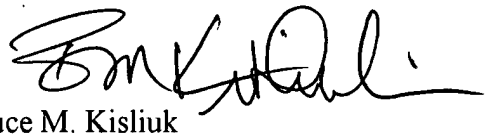
The purpose of allowing applicants to file an amendment after a Final Office action is to place an application in condition for allowance or to reduce or simplify issues in proceeding to the Board of Patent Appeals and Interferences. In the above instance applicants have provided a proposed amendment after Final Office action which cancels claim 132 and incorporates its limitation into independent claim 127 from which it depended. Contrary to the examiner's statement in the Advisory Action, incorporation of a limitation from a dependent claim into the claim from which it depends cannot raise a new issue requiring further consideration or search since such limitation must have been considered in initially rejecting the claims. As such the amendment must be entered. As to whether it reduces or simplifies the issues on Appeal is not addressed here.

DECISION

The petition to enter the amendment filed September 20, 2007, is **GRANTED**.

Applicants remain under obligation to file an appropriate Appeal Brief within the time period provided or take other appropriate action.

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



Bruce M. Kisliuk
Director, Technology Center 1600

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BINGHAM MCHALE LLP
2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS, IN 46204-4900

Mail Date: 04/23/2010

Applicant	: Lon S. Weiner	: DECISION ON REQUEST FOR
Patent Number	: 7641677	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/300,078	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1294** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/300,147	11/20/2002	John R. Martin	10527US17	6116

7590 02/07/2007

McAndrews, Held & Malloy, Ltd.
34th Floor
500 West Madison Street
Chicago, IL 60661

EXAMINER	
DIXON, THOMAS A	

ART UNIT	PAPER NUMBER
3628	

MAIL DATE	DELIVERY MODE
02/07/2007	PAPER

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/2006

TO SPE OF : ART UNIT 3600 (2628)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,970,834

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 inventor as req. in COCIN in Madras?**

Ernest C. White, LIE (703) 308-9390x122
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:

change of inventorship to exclude Samuel Zammuto is acceptable.

THOMAS A. DIXON
PRIMARY EXAMINER

SPE

3628
Art Unit

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Paper No. 15

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LEGAL PATENT RECORDS CENTER
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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of :
Paul R. Anderson, et. al. :
Application No. 10/300,191 : ON PETITION
Filed: November 20, 2002 :
Attorney Docket No. EL0486USDIV :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 13, 2005, to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

A review of the record discloses that a Notice of Non-Compliant Amendment under 37 CFR 1.121 was mailed on November 20, 2003, which set a one (1) month period for reply. The record fails to disclose receipt of a reply within the time period set. Accordingly, the application was held abandoned and a Notice of Abandonment was mailed on September 22, 2004.

Petitioner asserts that a response was in fact timely filed on November 26, 2003. In support, petitioner has submitted copies of the amendment, a copy of the mail log, and a copy of the postcard receipt. Petitioner also submitted a copy of a Certificate of Mailing under 37 CFR 1.8, dated November 26, 2003, which bears an itemization of the amendment. Therefore, the amendment filed November 26, 2003 is considered as timely filed, using a Certificate of Mailing dated November 26, 2003.

In view of the above, the petition to revive is unnecessary and the Notice of Abandonment mailed September 22, 2004 is hereby vacated.

This application is being referred to Technology Center Art Unit 1772 for review of the amendment.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

Mail Date: 04/20/2010

Applicant	: Antonios G. Mikos	: DECISION ON REQUEST FOR
Patent Number	: 7629388	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/300,202	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2002	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TALIVALDIS CEPURITIS
OLSON & HIERL LTD
20 NORTH WACKER DRIVE
36TH FLOOR
CHICAGO IL 60606

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APR 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Carr, et al.	:	
Application No. 10/300,215	:	DECISION ON
Filed: November 20, 2002	:	PETITION
Attorney Docket No. MER-104-Con.1	:	
For: METHOD FOR THE PRODUCTION OF NON-IMMUNOGENIC PROTEINS	:	

This is a decision on the petition filed March 28, 2003, requesting, in effect, a partial withdrawal of a Notice mailed dated January 31, 2003, insofar as the Notice alleges that Figure 29 was not among the papers filed on November 20, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was filed on November 20, 2002. On January 31, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 29, as described in the specification, appeared to have been omitted.

Petitioners request that Figure 29 be accorded a filing date of November 20, 2002 on the basis that 40 sheets of formal drawings, including Figure 29, were received in the Patent and Trademark Office (PTO) on November 20, 2002. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing November 20, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 40 sheets of formal drawings.

It is not necessary to discuss petitioners' evidence because an independent review of the application file reveals that Figure 29 is present.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**.

Regarding finances, the $130.00 petition fee will be refunded to via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **November 20, 2002**, for correction of Office records to show that 40 sheets of drawings were filed on November 20, 2002 and the mailing of a corrected filing receipt reflecting this fact.

Thereafter, the application will be returned to Technology Center 1642 for the mailing of an Office action.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

28 FEB 2006

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INTELLECTUAL PROPERTY/TECHNOLOGY LAW
PO Box 14329
Research Triangle Park, NC 27709

In re Application of:	:	
DIMEO, et al.	:	
Application No. 10/300,275	:	DECISION ON PETITION
Filed: November 20, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ATMI-557	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/828,115, filed April 06, 2001, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

Any request for reconsideration of this application must be filed within two months from the mailing date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and be sent to the address indicated below.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition complies with items (1) through (3) above. However, the examiner has indicated that the proposed amendment would not be entered because the amendment raises new issues which would require further consideration and/or search. Therefore, since the amendment does not *prima facie* place the application in condition for allowance, petitioner must submit a request for continued examination (RCE) under the provisions of 37 CFR 1.114, or file an amendment that *prima facie* places the application in condition for allowance, or file a continuing application pursuant to the provisions of 37 CFR 1.53(b).

Any request for reconsideration of this application must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

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

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

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

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

Any questions concerning this matter may be directed to Richard M. Ross at (571) 272-3296.

Boris Milef
Legal Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 7

DANN DORFMAN HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

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MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of :
London, et al. :
Application No. 10/300,279 :
Filed: November 20, 2002 : DECISION ON PETITION
Attorney Docket No. 2127-P03052US0 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed December 17, 2003 (Certificate of Mailing dated December 15, 2003).

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of a PCT international application filed on June 26, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

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

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth a projected publication date of June 17, 2004 accompanies this decision.

The application file is being forwarded to Group Art Unit 3754 for consideration of the Amendment filed February 23, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/300,279	11/20/2002	Larry R. London	2127-P03052US0

CONFIRMATION NO. 6932

000110
DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

Date Mailed: 03/08/2004

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 06/17/2004.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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Lisa M. Treannie
Morse, Barnes-Brown & Pendleton, P.C.
Reservoir Place
1601 Trapelo Road
Waltham, MA 02451

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AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Malek Faham, et. al. :
Application No. 10/300,285 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. AFMX-P01-208 :

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

The above application became abandoned for failure to timely reply to the non-final Office action mailed June 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,630 for a four month extension of time filed on December 21, 2007. However, 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 $1,630 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being referred to Technology Center Art Unit 1637, for further review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Sandra E. Wells
Legal Department
Affymetrix, Inc.
3420 Central Expressway
Santa Clara, CA 95051

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Paper No. 8

BRIGGS AND MORGAN, P.A.
2400 IDS CENTER
MINNEAPOLIS, MN 55402

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AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Yu et al. :
Application No. 10/300,390 : DECISION ON PETITION
Received: November 19, 2002 :
Attorney Docket No. :
33698.3 :

This is a decision on the Response to Decision on Petition, filed August 14, 2003.

The petition is **granted**.

The application was received on November 19, 2002. On March 14, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), stating that the application had NOT been accorded a filing date, because the application had been deposited without drawings. The Notice also required an abstract in order to avoid abandonment.

In response to the Notice, Applicant filed a petition stating that the application was deposited with a drawing and an abstract. In support, Applicant provided a copy of a return receipt postcard acknowledging receipt of one (1) page of drawings, and a specification, claims and abstract of 9 pages. A review of the file revealed that 7 pages of specification and claims were received. The file did not contain pages 8 or 9 of the specification, claims and abstract. Applicant had also failed to provide a copy of the missing items.

A review of the return-receipt postcard revealed the Petitioner was correct. The postcard acknowledged receipt of one (1) page of drawings, and a specification, claims and abstract of 9 pages on November 19, 2002. However, Petitioner failed to provide the missing items, and the requested relief could not be granted. The petition was dismissed in a decision mailed on July 15, 2003. A copy of the missing items was required.

In response to the July 15, 2003 Decision, Applicant filed, via facsimile, a copy of the specification, claims and abstract, consisting of nine (9) pages, and one (1) sheet of drawing, on July 24, 2003. However, the drawings and abstract were not acceptable for purposes of receiving a filing date under 37 CFR 1.8(a)(2)(i)(A) and 37 CFR 1.6(d)(4). Petitioner was so notified in a Decision mailed August 4, 2003.

With the instant Response to Decision on Petition, petitioner has filed the one (1) page of drawings and an abstract identified in the return-receipt postcard.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "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 items listed thereon by the PTO." MPEP § 503.

The petition is **granted**. The Notice of Incomplete Nonprovisional Application, mailed January 7, 2003, is hereby withdrawn.

A refund of the petition fee has been scheduled.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of November 19, 2002, using the original application papers filed, along with one sheet of drawing Figure and one page of abstract filed on August 14, 2003. Office record should reflect that one sheet of drawings and an abstract were present on filing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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P.O. BOX 2550
SALT LAKE CITY, UT 84110

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of :
David J. Corisis :
Application No. 10/300,300 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 2269-2811.7US(96-0243.7) :

This is a decision on the petition, filed February 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 21, 2004, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated June 18, 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 forwarded to Technology Center AU 2814 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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OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of
David J. Corisis
Application No. 10/300,300
Filed: November 19, 2002
Attorney Docket No. 2269-2811.7US (96-0243.7)

: DECISION ON PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 25, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

This application issued into a patent on October 25, 2005. Therefore, as the petition to withdraw from issue was received after issuance, the petition cannot now be granted.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the checks received for the $790 filing RCE fee and the $130 petition fee are being returned herewith.

The Information Disclosure Statement has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (571) 272-2318.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENTS: Check No. 8542 for $130 and Check No. 8543 for $790

SPE: L. Picard

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/9/04

TO SPE OF : ART UNIT 2125

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/300,312 Patent No.: 7024270

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: _____

8/1/06

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

L. P. Picard — **SPE**

2125 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:0405

DATE : April 11, 2005

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 6,771,058

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:

Proposed change in column 1, line 19 and line 25 (not mentioned in the request) from "60/226,130" to "60/226,131" is denied because the Oath/declaration filed on 11/20/2002 does not have support for "60/226,131".

SPE: Nestor Ramirez **Art Unit** 2829

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:0405

DATE : April 11, 2005

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 6,771,058

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:

Propsed change in column 1, line 19 and line 25 (not mentioned in the request) from "60/226,130" to "60/226,131" is denied because the Oath/declaration filed on 11/20/2002 does not have support for "60/226,131".

SPE: Nestor Ramirez **Art Unit** 2829

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Paper No. 5

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of :
John Higgins, Ian Newington, :
Charles Anderson, Harjit Bhambra : DECISION REFUSING STATUS
and Janglin Chen : UNDER 37 C.F.R. § 1.47(a)
Application No. 10/300,345 :
Filed: November 20, 2002 :
Attorney Docket No. 81439JLT :
Title: ADHESION PROMOTING :
POLYMERIC MATERIALS AND :
PLANOGRAPHIC PRINTING ELEMENTS :
CONTAINING THEM :

This is in response to the "Petition Under 37 C.F.R. 1.47(a) To Accept A Patent Application Without The Signature Of A Joint Inventor Who Cannot Be Reached," filed March 4, 2003 (certificate of mailing February 27, 2003).

The petition is **DISMISSED**.

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

The above-identified application was filed on November 20, 2002, with a declaration executed by joint inventors Higgins, Newington, Anderson and Chen. Accordingly, on December 30, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of a declaration executed by inventor Bhambra and payment of the surcharge for late filing under § 1.16(e).

In response, rule 47 applicants timely filed the instant petition, along with payment of the petition fee, and late surcharge. On petition, applicants assert that status under § 1.47(a) is proper because inventor Bhambra cannot be reached to execute the declaration. In support thereof, applicants submit *inter alia* a statement of facts of Ann Kelly, setting forth the efforts made to locate inventor Bhambra, and a declaration for patent executed by Douglas J. Edwards on behalf of joint inventor Bhambra.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

The declaration is unacceptable as it is executed by a Douglas Edwards on behalf of non-signing inventor Bhambra. 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." Thus, in addition to other requirements of law (35 U.S.C. 111(a) and 115), in an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a):

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP §602, §605.01, and §1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.
>
> (Emphasis added).

On renewed petition, rule 47 applicants must correct the following deficiencies:

> Supply an oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Bhambra (Rule 47 applicants are reminded that an oath or declaration with non-initialized/non-dated changes is unacceptable).

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

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450[1]

---

[1] Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003).

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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OFFICE OF PETITIONS

In re Application of :
John Higgins, Ian Newington, Charles :
Anderson, Harjit Bhambra :
and Janglin Chen :
Application No. 10/300,345 :
Filed: November 20, 2002 :
Attorney Docket No. 81439JLT :
Title: ADHESION PROMOTING POLYMERIC :
MATERIALS AND PLANOGRAPHIC PRINTING :
ELEMENTS CONTAINING THEM :
:

DECISION NOTING JOINDER
OF INVENTOR AND
PETITION UNDER
37 C.F.R. § 1.47(a) MOOT

This is a decision on the Request for Reconsideration of Petition under 37 CFR 1.47(a) filed June 11, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was deposited on November 20, 2002 with a declaration executed by joint inventors Higgins, Newington, Anderson and Chen, and by a Douglas Edwards on behalf of non-signing inventor Bhambra. The initial petition filed March 5, 2003 was dismissed for failure to submit an acceptable declaration; one executed by the available inventors on behalf of themselves and on behalf of the non-signing inventor pursuant to § 1.47(a) (Decision mailed May 19, 2003).

On instant request for reconsideration, applicants timely and properly replied with a declaration executed by previously non-signing inventor Bhambra. This declaration has been reviewed and found acceptable.

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

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

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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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS IN 46204

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APR 07 2008

OFFICE OF PETITIONS

In re Patent No. 6,983,632 :
Issue Date: January 10, 2006 :
Application No. 10/300,347 : NOTICE
Filed: November 20, 2002 :
Attorney Docket No. HES0010 :

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Kevin L. Russell
Suite 1600
601 SW Second Ave.
Portland OR 97204-3157

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MAY 07 2004

OFFICE OF PETITIONS

In re Application of :
Randy Schwindt :
Application No. 10/300,349 : DECISION ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. KLR 1016.2011 :

This is a decision on the petition under 37 CFR §1.137(b), filed March 22, 2004.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on September 5, 2003. The final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 6, 2003. This decision precedes the mailing of a Notice of Abandonment .

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

A three (3) month extension of time was requested. However, pursuant to 37 CFR §1.136, an extension of time 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) Petitioner's six (6) month statutory period expired on March 5, 2004. Petitioner is ineligible for any extensions of time. Accordingly, deposit account number 03-1550 will be credited with $475.00 for fees paid to acquire an extension of time.

The Request for Continued Examination (RCE) and the amendment submitted with the instant petition will be forwarded to Technology Center 2800 for further processing.[1]

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]It is noted a CPA was originally filed, however CPA practice is restricted to design applications and utility and plant applications filed before May 29, 2000.

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P.O. Box 1450
Alexandria, VA 22313-1450
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Michael L. Leetzow, Esq.
Michael L. Leetzow, P.A.
5213 SHORELINE CIRCLE
SANFORD,FL 32771

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Childers, et al. :
Application No.: 10/300,368 :ON PETITION
Filed: November 20, 2002 :
Attorney Docket No:USCO-008 :

This is a decision on the petition under 37 CFR §1.137(b), November 15, 2006, to revive the above-identified application.

The petition is **dismissed.**

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed June 30, 2005. The notice set a shortened statutory period for reply of three months from its mailing date. A response was filed on August 22, 2005, which did not place the application in condition for allowance. A Notice of Abandonment was mailed on March 23, 2006.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

Examiner Timothy Rude has determined that the amendment filed November 15, 2006, failed to place the application in condition for allowance. A proper response must be filed with any renewed petition. A proper response would be a Request for Continued Examination under 37 CFR 1.114 or an amendment that places the application in condition for allowance.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael L. Leetzow
Michael L. Leetzow, P.A.
5213 Shoreline Circle
Sanford, FL 32771

June 19, 2007

In re Application of :
Childers, et al. :
Application No.: 10/300,368 : DECISION ON PETITION
Filed : November 20, 2002 : UNDER 37 C.F.R. 1.181
Attorney Docket No.: USCO-008 :

This a decision on the petition under 37 C.F.R. 1.181, filed May 15, 2007, requesting that the finality of the Office action of June 30, 2007, be withdrawn.

The petition is **DISMISSED**.

A final Office action was mailed on September 12, 2005, wherein claims 1-19, 21 and 22 were finally rejected and the remaining claims 20 and 23 were restricted and withdrawn from consideration as being directed to independent or distinct inventions from the invention of claims 1-19 that had already received an action on the merits. A reply was filed on August 22, 2005, requesting reconsideration of the final rejections. The arguments set forth in the reply were not found to be persuasive by the examiner and an Advisory Action was mailed on September 12, 2005. A petition under 37 C.F.R. 1.144 was filed on September 30, 2005 requesting review and withdrawal of the restriction requirement set forth in the Final Office action. Absent any further reply to the final Office action, the application was held abandoned and a Notice of Abandonment was mailed on March 23, 2006.

A petition to revive under 37 CFR 1.137(b) was filed on November 15, 2006. The petition was dismissed in a decision mailed March 19, 2007, because it was not accompanied by a required reply within the meaning of 37 C.F.R. 1.113. The instant petition to withdraw the finality of the Office action of September 12, 2006 was filed on May 15, 2007.

Failure to timely file a proper reply under 37 C.F.R. 1.113 in response to a final Office action results in abandonment of the application. Petitioner has not submitted a reply pursuant to 37 C.F.R. 1.113 in this application. While it is regrettable that the petition under 37 C.F.R. 1.144 was not timely decided, the filing of this petition did not operate to toll the statutory period for reply to the final Office action and save the application from becoming abandoned.

Since the application became abandoned by operation of law, the Technology Center lacks authority to take further action until the application is revived. See *Lorenz v. Finkl*, 142 USPQ 26 (CCPA 1964).

For the above-stated reason, the petition is dismissed.

Any inquiry regarding this decision should be directed to David C. Nelms, Supervisory Patent Examiner, at (571) 272-1787.

Janice A. Falcone, Director
Technical Center 2800
Semiconductors, Electrical and Optical
Systems and Components

JAF/dcn

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RUTH EURE
4795 EDISON AVENUE
BOULDER CO 80301

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :

Robert Lee Bromley :

Application No. 10/300,381 : DECISION ON PETITION

Filed: March 21, 2003 :

Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the communication mailed January 19, 2004, which set a shortened period for reply of three months from its mailing date. A response was not received within the allowable period and the application became abandoned on February 20, 2004. A Notice of Abandonment was mailed on August 22, 2005.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The election filed November 8, 2006, is noted.

The application is being forwarded to Technology Center 3600, GAU 3625 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

#5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re. Appln.:	Dabang Yu, et al
Serial No.:	10/300,390
Filed:	November 19, 2002
For:	PURELY ROLLING BEARING
Confirmation No.:	7783
Attorney:	Gerald E. Helget
Attorney Docket No.:	33698.3
Additional Fees:	Charge to Deposit Account 02-3732

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

FAX RECEIVED
JUL 2 4 2003
PETITIONS OFFICE

Sir:

RESPONSE TO DECISION ON PETITION

This communication is filed in response to the Decision on Petition, mailed July 15, 2003, a copy of which is attached hereto for reference.

Transmitted herewith please find the following:

1. Specification, claims and abstract, consisting of nine (9) pages; and

2. One (1) sheet of drawings.

Applicant asserts that these items were, in fact, deposited with the PTO with the original application papers filed on November 19, 2002, and respectfully requests that the above application be awarded the original filing date of November 19, 2002. Applicant also requests that, upon grant of the petition filed on November 19, 2002 under 37 C.F.R. §1.53(e), the petition fee be refunded by a credit to Deposit Account No. 023732.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document is being transmitted via facsimile (703) 308-6916 to the Office of Petitions, Commissioner for Patents, on the dat indicated below.

By
Date 24 July 03

Authorization is hereby made to deduct any additional charges and/or credit any overpayments to Deposit Account No. 02-3732.

Respectfully submitted,

Dated: 24 July 03

By _____
Gerald E. Helget (Reg. No. 30,948)
Briggs and Morgan, P.A.
2400 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Telephone: (612) 334-8480
Facsimile: (612) 334-8650

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

BRIGGS AND MORGAN, P.A.
2400 IDS CENTER
MINNEAPOLIS, MN 55402

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JUL 15 2003

OFFICE OF PETITIONS

In re Application of
Yu et al.
Application No.10/300,390
Received: November 19, 2002
Attorney Docket No.
33698.3

DECISION ON PETITION

This is a decision on the Petition to Establish Prior Receipt in the PTO of Items Considered as Omitted by the PTO - Response to Notice of Incomplete Nonprovisional Application, filed March 5, 2003.

The petition is **dismissed.**

The application was received on November 19, 2002. On March 14, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), stating that the application had NOT been accorded a filing date, because the application had been deposited without drawings. The Notice also required an abstract in order to avoid abandonment.

In response applicant submits the instant petition wherein Applicant avers that the application was deposited with a drawing and an abstract. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of one (1) page of drawings, and a specification, claims and abstract of 9 pages. A review of the file reveals that 7 pages of specification and claims were received. The file does not contain pages 8 or 9 of the specification, claims and abstract. Applicant has also failed to provide a copy of the missing items.

A review of the return-receipt postcard reveals the Petitioner is correct. The postcard acknowledges receipt of one (1) page of drawings, and a specification, claims and abstract of 9 pages on November 19, 2002. However, Petitioner has failed to provide the missing items, and the requested relief may not be granted at this time. In order to grant a filing date, 35 U.S.C. requires a drawing where necessary for the understanding of the invention. Petitioner must provide a copy of the missing items.

It is noted that this petition is dismissed without prejudice. The application will be maintained in the Office of Petitions for a period of **two (2) months** to allow Applicant to file a copy of the missing items. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136. Thereafter the file will be returned to the Office of Initial Patent Examination for further processing.

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

BRIGGS AND MORGAN, P.A.
2400 IDS CENTER
MINNEAPOLIS, MN 55402

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AUG 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Yu et al. :
Application No. 10/300,390 : DECISION ON PETITION
Received: November 19, 2002 :
Attorney Docket No. :
33698.3 :

This is a decision on the Response to Decision on Petition, filed July 24, 2003.

The petition is **dismissed.**

The application was received on November 19, 2002. On March 14, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), stating that the application had NOT been accorded a filing date, because the application had been deposited without drawings. The Notice also required an abstract in order to avoid abandonment.

In response to the Notice, Applicant filed a petition stating that the application was deposited with a drawing and an abstract. In support, Applicant provided a copy of a return receipt postcard acknowledging receipt of one (1) page of drawings, and a specification, claims and abstract of 9 pages. A review of the file revealed that 7 pages of specification and claims were received. The file did not contain pages 8 or 9 of the specification, claims and abstract. Applicant had also failed to provide a copy of the missing items.

A review of the return-receipt postcard revealed the Petitioner was correct. The postcard acknowledged receipt of one (1) page of drawings, and a specification, claims and abstract of 9 pages on November 19, 2002. However, Petitioner failed to provide the missing items, and the requested relief could not be granted. The petition was dismissed in a decision mailed on July 15, 2003. A copy of the missing items was required.

In response to the July 15, 2003 Decision, Applicant files, via facsimile, a copy of the specification, claims and abstract, consisting of nine (9) pages, and one (1) sheet of drawing.

As per 37 CFR 1.6(d), facsimile transmissions are not permitted in (3) correspondence which cannot receive the benefit of the certificate of mailing or transmission as specified in 37 CFR 1.8(a)(2)(i)(A) ("[t]he filing of a national patent application specification and drawing or other correspondence for the purposes of obtaining an application filing date...)". Additionally, 37 CFR 1.6(d)(4) prohibits the filing via facsimile drawings submitted under 37 CFR §§ 1.81, 1.83 through 1.85, 1.152, 1.165, 1.174, 1.437, 2.51, 2.52, or 2.72.

Accordingly, the correspondence filed with the instant renewed petition is not acceptable.

It is noted that this petition is dismissed without prejudice. The application will be maintained in the Office of Petitions for a period of **two (2) months** to allow Applicant to file a copy of the missing items. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136. Thereafter the file will be returned to the Office of Initial Patent Examination for further processing.

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

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SEP 04 2003

OFFICE OF PETITIONS

BRIGGS AND MORGAN, P.A.
2400 IDS CENTER
MINNEAPOLIS, MN 55402

In re Application of
Yu et al.
Application No. 10/300,390
Received: November 19, 2002
Attorney Docket No.
33698.3

CORRECTED
DECISION ON PETITION

This is a decision on the Response to Decision on Petition, filed August 14, 2003.

The petition is **granted.**

The application was received on November 19, 2002. On March 14, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), stating that the application had NOT been accorded a filing date, because the application had been deposited without drawings. The Notice also required an abstract in order to avoid abandonment.

In response to the Notice, Applicant filed a petition stating that the application was deposited with a drawing and an abstract. In support, Applicant provided a copy of a return receipt postcard acknowledging receipt of one (1) page of drawings, and a specification, claims and abstract of 9 pages. A review of the file revealed that 7 pages of specification and claims were received. The file did not contain pages 8 or 9 of the specification, claims and abstract. Applicant had also failed to provide a copy of the missing items.

A review of the return-receipt postcard revealed the Petitioner was correct. The postcard acknowledged receipt of one (1) page of drawings, and a specification, claims and abstract of 9 pages on November 19, 2002. However, Petitioner failed to provide the missing items, and the requested relief could not be granted. The petition was dismissed in a decision mailed on July 15, 2003. A copy of the missing items was required.

In response to the July 15, 2003 Decision, Applicant filed, via facsimile, a copy of the specification, claims and abstract, consisting of nine (9) pages, and one (1) sheet of drawing, on July 24, 2003. However, the drawings and abstract were not acceptable for purposes of receiving a filing date under 37 CFR 1.8(a)(2)(i)(A) and 37 CFR 1.6(d)(4). Petitioner was so notified in a Decision mailed August 4, 2003.

With the instant Response to Decision on Petition, petitioner has filed the one (1) page of drawings and an abstract identified in the return-receipt postcard.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "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 items listed thereon by the PTO." MPEP § 503.

The petition is **granted**. The Notice of Incomplete Nonprovisional Application, mailed January 7, 2003, is hereby withdrawn.

No fee has been charged and none is due.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of November 19, 2002, using the original application papers filed, along with one sheet of drawing Figure and one page of abstract filed on August 14, 2003. Office record should reflect that one sheet of drawings and an abstract were present on filing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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APP 18 2006

BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC
6075 POPLAR AVENUE
SUITE 500
MEMPHIS, TN 38119

In re Application of	:
Mark D. Crew	:
Serial No.: 10/300,393	: STATUS LETTER
Filed: November 19, 2002	:
Attorney Docket No.: 022438.50265	:

This is in response to applicants' attorneys' request, filed January 17, 2006, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number 571-273-8300.

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

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BUTLER, SNOW, O'MARA, STEVENS
AND CANNADA, PLLC
6075 POPLAR AVENUE
SUITE 500
MEMPHIS, TN 38119

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of :
Crew :
Application No. 10/300,393 : DECISION ON PETITION
Filed: November 19, 2002 : TO WITHDRAW
Attorney Docket No. 022438.50265 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2006.

The request is **APPROVED**.

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

The request was signed by Susan B. Fentress on behalf of all attorneys of record who are associated with customer No. 28172.

All attorneys/agents associated with the Customer Number 28172 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 Mark S. Crew at the address indicated below.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office

will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 3, 2005 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mark D. Crew
115 Stonehenge Place
Little Rock, Arkansas 72212

cc: McTavish Patent Firm
429 Birchwood Courts
Birchwood MN 55110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McTavish Patent Firm
429 Birchwood Courts
Birchwood MN 55110

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AUG 2 8 2006

OFFICE OF PETITIONS

In re Application of
Crew
Application No. 10/300,393
Filed: November 19, 2002
Attorney Docket No. 8793-50391

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed July 21, 2005.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the assignee intervened on July 1, 2004. Since the applicant has transferred all rights to the assignee, any/all papers submitted by the applicant will be placed in the file, but will not be considered.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on July 21, 2005 does not include one of the above two options.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES 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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MAR 12 2007

OFFICE OF PETITIONS

In re Application of :

Matijasevic, et al. :

Application No. 10/300,413 : DECISION ON PETITION

Filed: November 19, 2002 :

Attorney Docket No. 10467.44USD1

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed in the above-cited application March 9, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A reply was not filed within the allowable period. The application became abandoned on June 10, 2004. A Notice of Abandonment was mailed September 16, 2004.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The Request for Continued Examination, filed October 13, 2006, is noted and made of record.

The request for an extension of time within the third month filed October 13, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the final Office action. The amount of $510.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2800, GAU 2823 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STEVEN R. VOSEN
SHEPPARD MULLIN RICHTER & HAMPTON LLP
FOUR EMBARCADERO CENTER, 17TH FLOOR
SAN FRANCISCO, CA 94111-4106

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JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Scott E. Bisson et al :
Application No. 10/300,421 : NOTICE
Filed: November 19, 2002 :
Attorney Docket No. 20822-02

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

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

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

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

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

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

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

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

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

This file is being forwarded to Technology Center AU 2877.

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

Paper No. 7

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

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MAY 1 9 2003

OFFICE OF PETITIONS

In re Application of
Robert Burr Dilday et al
Application No. 10/300,428
Filed: November 20, 2002
For: DATA STORAGE CARD HAVING BOTH LINEAR AND ANNULAR DATA REGIONS

: DECISION GRANTING
: STATUS UNDER 37 CFR
: 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a), filed March 17, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Brian Hearn for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TIMOTHY SCARAFIOTTI
12750 E. CORTEZ DRIVE
SCOTTSDALE, AZ 85256

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Dilday; Scarafiotti; and Gregor
Application No. 10/300,428
Filed: November 20, 2002
For: DATA STORAGE CARD HAVING BOTH LINEAR AND ANNULAR DATA REGIONS

Dear Mr. Scarafiotti:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Brian Hearn, for

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

CC:
STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

UNITED STATES PATENT AND TRADEMARK OFFICE

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SACCO & ASSOCIATES, PA
P.O. BOX 30999
PALM BEACH GARDENS FL 33420-0999

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OCT 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Stephen B. Brown et al :
Application No. 10/300,455 :
Filed: November 19, 2002 :
Attorney Docket No. 7162-48 :

ON PETITION

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 August 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2817 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104-3800

MAILED

MAY 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 6,901,939 :
Issue Date: June 7, 2005 :
Application No. 10/300,523 : DECISION ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 02280.003240. :

This is a decision on the petition under 37 CFR 1.378(c), filed April 13, 2010 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 8, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

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

Date: 03/19/09

Patent No. : 7122522 B2
Ser. No. : 10/300,530
Inventor(s) : ANDERSEN, THOMAS T.
Issued : 10/17/08
Title : **ALPHA-FETOPROTEIN PEPTIDES AND USES THEREOF**
Docket No. : **19705-009D (MTAP-9D)**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

8/21/08

Patent No. :7395583
Ser. No. :10/300532
Inventor(s) :Clune et al.
Issued : 7/8/08
Title : HOOK ENGAGEABLE LOOPS
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

CELIA H. LEBER
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MINNESOTA 55440-1022

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE 18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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OFFICE OF PETITIONS

In re Application of :
Sreeram et al. :
Application No. 10/300,540 : DECISION ON PETITION
Filed: 11-20-2002 :
Attorney Docket No. 9755-12 :

This is a decision on the petition filed January 22, 2007, to withdraw the holding of abandonment for the above-identified application.

On August 17, 2006, 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 and a Notice of Abandonment was mailed on January 8, 2007.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt, re-mail the Notice of Allowance, and restart the period for reply.

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**. No petition fee is required.

Technology Center Art Unit 1754 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new Notice of Allowance. The three (3) month statutory time period for responding to the Notice of Allowance will be set to run from the mailing date of the new Notice of Allowance.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

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OFFICE OF PETITIONS

In re Application of :
Nigel Paul DAVIES et al. :
Application No. 10/300,547 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 340357-00001 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 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 August 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 21, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $810.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 20, 2007 is accepted as having been unintentionally delayed.

Applicant requested a refund for the inadvertently paid large entity filing fee of $1,620 for the petition. A refund in the amount of $1,620 has been credited back to the Applicant's Deposit Account No.50-1214. The Deposit Account has been charged the small entity fee of $810.

Telephone inquiries concerning this decision should be directed to Niketa I. Patel at 571-272-4156 or in her absence, the undersigned at 571-272-7099.

The application file is being referred to Technology Center AU 3692 for appropriate action on the concurrently filed amendment.

David A. Bucei
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/20/05

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction on Patent No.: 6806175

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.

Check claims.

Thank You For Your Assistance

Connie Young
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:

EDDIE LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE 2811 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 19 2005

GOLDSTEIN LAW OFFICES, P.C.
2071 CLOVE ROAD - 204
STATEN ISLAND, NY 10304

Paper No. 8

In re Application of
MAGALLANES ET AL.
Appl No.: 10/300,606
Filed: November 20, 2002

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed July 20, 2004 for failure to timely pay the issue fee due May 27, 2004 required by the Notice of Allowance, mailed February 27, 2004. In view of the statements in the letter received January 16, 2005 alleging non-receipt, the submission is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. No fee is required for this petition.

The petition is granted.

In support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA.

In view of the above, the Notice of Abandonment mailed July 20, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. The Notice of Allowance will be remailed and the statutory period that was originally set forth in the Office communication will be restarted to run from the mail date of the newly supplied Notice of Allowance.

Summary: Holding of Abandonment Withdrawn.

/Richard A. Bertsch/
Richard A. Bertsch, Director
Technology Center 3700

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PFIZER INC
Mary J. Hosley
150 EAST 42ND STREET
MS: 150/02/E112
NEW YORK NY 10017-5612

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OFFICE OF PETITIONS

In re Application of :
AM ENDE et al. : DECISION ON APPLICATION
Application No. 10/300,608 : FOR
Filed: November 20, 2002 : PATENT TERM ADJUSTMENT
Attorney Docket No. PC23248A :

This is in response to the "PETITION FOR REINSTATEMENT OF PTA AND FOR RECONSIDERATION OF PTA 37 CFR 1.705(b) and 37 CFR 1.705(c)," filed January 19, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 830 days, not 388 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, applicants contend that the period of reduction of 2 days for applicant delay pursuant to 37 CFR 1.704(b) should be removed.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within

three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 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, Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

To the extent that applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is **DISMISSED**.

Applicants request the removal of the period reduction under 37 CFR 1.704(b) of 2 days on the ground that the response to the Office action mailed November 3, 2006, was filed timely on February 5, 2007. Applicants assert that the three (3) month shortened statutory period for response to the Office action of November 3, 2006, fell on Saturday, February 3, 2007, and therefore, they had until the next succeeding business day, February 5, 2007, to file a timely response.

Applicants' argument is without merit. Applicants were properly assessed a delay of 2 days for filing a response on February 5, 2007, to the Office action of November 3, 2006. Calculation of applicants' delay is based on the date of receipt of the response in the Office. 35 U.S.C. 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. 21(b) does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii). Accordingly, the period of reduction of 2 days will remain.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10-300610

Paper No.: _____

DATE : 11/22/04

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction on Patent No.: 6,796,709

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

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

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

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

285-J

Art Unit

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1750 TYSONS BLVD
SUITE 1800
MCLEAN VA 22102

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NOV 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Salim A. Nathoo	:	DECISION ON PETITION
Application No. 10/300,624	:	UNDER 37 CFR 1.78(a)(3)
Filed: 21 November, 2002	:	
Atty Docket No. 08230003US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 27 June, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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[1] *Note* 37 CFR 1.121

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Salim A. Nathoo	:	DECISION ON PETITION
Application No. 10/300,624	:	UNDER 37 CFR 1.78(a)(3)
Filed: 21 November, 2002	:	
Atty Docket No. 08230003US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 29 November, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the

prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 (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 1614 for appropriate action on the amendment filed 29 November, 2005, including consideration by the examiner of applicant's

entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances M. Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Encl: Corrected Filing Receipt

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JAN 30 2006

PAUL D. GREELEY, ESQ.
OHLANDT, GREELEY, RUGGERIO & PERLE, LLP
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD, CT 06901-2682

In re Application of	:
Ali Afzali-Ardakani et al	:
Serial No.: 10/300,645	: PETITION DECISION
Filed: November 30, 2002	:
Attorney Docket No.: YOR920020160	:

This is in response to the petition under 37 CFR 1.144, filed November 7, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on November 30, 2002, and contained claims 1-29. In a first Office action, mailed May 12, 2005, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

Group I – Claims 1-5 and 6-8, drawn to a Diels-Alder adduct where the dienophile is a bridged pyran;

Group II – Claims 1-5 and 9, drawn to a Diels-Alder adduct where the dienophile is a bridged 1,2-oxazine;

Group III – Claims 1-5 and 10-11, drawn to a Diels-Alder adduct where the dienophile is a bridged 1,2-thiazine;

Group IV – Claims 1-5 and 12-15, drawn to a Diels-Alder adduct where the dienophile is a bridged 1,2-diazine;

Group V – Claims 1-5, 16-21 and 29, drawn to others and process of making;

Group VI – Claims 22-28, drawn to a method of forming a thin film.

The examiner reasoned that the bridging groups in Groups I-IV were all different creating different compounds and that Group V is drawn to others and that these Groups differ from Group VI which is a process of making a thin film of the materials, but which could be made in other ways. The examiner also required an election of species if either Group V or Group VI was elected.

Applicants replied on June 13, 2005, electing Group II, with traverse. Applicants' traverse centered on two points. Applicants argued first that a previous restriction dividing the claims into three groups had been made by Examiner Fletcher, the three groups being: I - composition claims 1-21 and 29; II - method of forming a film claims 22-23 and 25-27; and III - product by process claims 24 and 28. Applicants state that they elected Group I for prosecution. No record of this restriction appears in the written record. The second point argued is that what is set forth as a restriction requirement is actually an election of species requirement and the examiner has confused restriction practice with election of species practice which is proper for claims containing Markush groups as these claims do.

The examiner mailed a non-Final Office action to applicants on July 19, 2005, acknowledging applicants' election of Group II. The examiner responded to the traversal of the restriction requirement by maintaining that it is a proper restriction requirement and not an election of species. The examiner also noted that there was an apparent oral restriction requirement made by Examiner Fletcher which was not incorrect, but was incomplete. The requirement was then made Final. Claims 1-5, 9 and 17-21 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. No other rejections were made.

Applicants replied on October 24, 2005, amending claims 1-2 and 17 and adding claim 30. Applicants continued to object to the restriction requirement as improper for essentially the same reasons as previously. Applicants then filed this petition for review of the restriction requirement on November 7, 2005.

DISCUSSION

Applicants argue in the petition the same points enumerated above – that there was a previous proper restriction requirement and there cannot be two restriction requirements which are both correct and that the present requirement is really an election of species.

Initially it is noted that applicants' claim 1 is significantly confusing which makes determining whether a restriction requirement or an election of species or other action is proper. The confusion is raised by the R^1-X=Y-R^2 definitions. X and Y are first defined as independently selected from N and CR^7; then R^1-X = is defined a O, S, SO or SO_2 (it is further unclear whether both R and X are being defined here or just X); finally X and Y are defined as at least one being a hetero atom of N, O or S. This shows X as defined in at least three different ways and Y in two different ways. Irrespective of this Examiner Fletcher at some time made a telephone restriction requirement and obtained an election of Group I (claims 1-21 and 29) for further prosecution (although this does not appear in the written record as it should). Examiner Fletcher's requirement was flawed in that the product by process claims should have been included with the product claims, and incomplete as failing to identify as linking claims, claims 1-5.

Notwithstanding the proper telephone election, the examiner to whom the application was transferred set forth a new restriction requirement. The new requirement, however, is also flawed. As noted in the requirement, claims 1-5 are included with each of Groups I-V thus showing that claims 1-5 are linking claims and linking claim practice in making a restriction must be followed. (Further, Group V should have been divided into two Groups: Claim 16 drawn to the polycene substituent, and possibly considered as a linking claim; and Claims 17-20 drawn to a process for making the products; Claim 21 should be grouped with Claims 1-5.) Thus claims 6-16, as divided into Groups I-V are shown to be independent products/compositions linked to each other by claims 1-5 (and 21). Election of any of Groups I-V required examination of the compound specifically disclosed therein as well as claims 1-5 (and 21). If no prior art was found on the elected invention and linking claims, then all other groups were required to be rejoined and fully examined.

On the other hand, applicants' argument that the restriction requirement is truly an election of species requirement is not correct. However, the arguments presented also apply in general to linking claim practice. Applicants' further argument that there cannot be two correct restriction requirements in an application is noted, but not accepted. Restriction is a tool that an examiner may use to limit the claims of an application to that which the examiner finds define a single invention. Different examiners may have different views as to what constitutes a single invention and thus make different requirements, or no requirement. While the Office seeks consistency in determining what can and cannot be restricted, examiners based on their own experience can differ. The Office will, however, take appropriate action to correct an improperly set forth restriction requirement, as here.

In summary, the restriction requirement is redrafted as follows:

Group I – Claims 6-8, drawn to a Diels-Alder adduct where the dienophile is a bridged pyran;

Group II – Claim 9, drawn to a Diels-Alder adduct where the dienophile is a bridged 1,2-oxazine;

Group III – Claims 10-11, drawn to a Diels-Alder adduct where the dienophile is a bridged 1,2-thiazine;

Group IV – Claims 12-15, drawn to a Diels-Alder adduct where the dienophile is a bridged 1,2-diazine;

Group V – Claims 22-28, drawn to a method of forming a thin film;

Group VI – Claims 17-20, drawn to a process of making a Diels-Alder product.

Claims 1-5, 16 and 21 are considered to be linking claims, linking Groups I-IV, and will be examined with whichever Group is elected. (See M.P.E.P. 809.03) Should the elected Group and linking claims be found allowable all other linked Groups will be rejoined with the elected Group (see M.P.E.P. 821.04). Group VII is directed to a process of making a Diels-Alder product and rejoinder of the process of making and product claims under *In re Ochiai* must be considered upon determination of allowability of product claims (see M.P.E.P. 821.04(a)). Applicants' election of Group II will continue to be effective.

DECISION

The petition is **GRANTED-IN-PART**. The restriction requirement as set forth in Groups I-V, as modified, is deemed proper and claims 1-5 and 21 are deemed to be linking claims and are examined with elected Group II. Should elected Group II and the linking claims be found patentable over the art, the claims of Groups I and III-IV will be rejoined and examined fully for compliance with all applicable statutes. Group V is properly held withdrawn from consideration as directed to a non-elected invention. However, rejoinder of Group VI under *In re Ochiai* must be considered if compound claims are found to be patentable.

The application will be forwarded to the examiner for consideration of applicants' reply filed October 24, 2005, 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.

George C. Elliott
Director, Technology Center 1600

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DAVID HONG, LAW OFFICE OF DAVID HONG
P.O. BOX 2111
SANTA CLARITA CA 91386

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Dayna Decker, et al. :
Application No. 10/300,649 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 04E1-084878 :

This is a decision on the petition, filed April 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3749 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : April 18, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Dayna Decker, et al
Application No. : 10/300,649
Filed : November 19, 2002

The above-identified application has been assigned Patent No. 6,881,057 and an issue date of April 19, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 19, 2005:

> "All reference to Patent No. 6,881,057 to DAYNA DECKER, ET AL of CALIFORNIA for OIL LAMP appearing in the Official Gazette of April 19, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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MCLEAN VA 22102

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Ashvin DESAI :
Application No. 10/300,655 : DECISION ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 87001-0300113 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 04, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 04, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 05, 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 $755.00 and publication fee of $300.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Charles L.M. DUNLOP et al. :
Application No. 10/300,683 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. CHARDUN.010A :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply to the requirement for restriction/election mailed September 20, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 21, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3). Petitioner has submitted the response and the petition fee of $750; however, petitioner has failed to submit a proper 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." The petition lacks such a statement. A form for complying with the provisions of 37 CFR 1.137(b) may be found on the USPTO.gov website (Form No. PTO/SB/64).

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the other applicant has not given the one signing a power of attorney.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Charles L.M. Dunlop) was ever given a power of attorney to act on behalf of the inventors, or that petitioner Charles L.M. Dunlop is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

The Power of Attorney filed July 20, 2007 is not signed by all of the inventors and therefore is not acceptable. Should applicant desire to appoint a Power of Attorney by less than all of the inventors, the Power of Attorney must comply with the provisions of MPEP 402.10.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1637 for appropriate action on the concurrently filed response.

David Bucci
Petitions Examiner
Office of Petitions

cc: Charles L.M. Dunlop
Ambry Genetics
100 Columbia #200
Aliso Viejo, CA 92656

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIOTECH BEACH LAW GROUP, PC
625 BROADWAY, SUITE 1210
SAN DIEGO, CA 92101

COPY MAILED

SEP 15 2008

In re Application of :
Charles L. M. DUNLOP et al. :
Application No. 10/300,683 : DECISION ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. AMG-02U1 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 2007 to revive the above-identified application.

The petition is **GRANTED**.

The above identified application became abandoned for failure to reply in a timely manner to the requirement for restriction/election, mailed September 20, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 21, 2005.

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an restriction/election, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

The Power of Attorney and Change of Correspondence Address filed December 26, 2007 is accepted.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 1637 for appropriate action by the Examiner in the normal course of business on the reply received December 26, 2007.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877-0368

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of :
Monique Helen Verheije et al. :
Application No. 10/300,699 : ON PETITION
Filed: November 19, 2002 :
Attorney Docket No. 2183-5584US :

This is a decision on the petition filed June 12, 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 April 25, 2006 for failure to timely pay the issue fee on or before April 24, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Erdem A. Cetin et al. :
Application No. 10/300,700 : ON PETITION
Filed: November 20, 2002 :
Attorney Docket No.: 3174.1005-007 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 11, 2005 for failure to timely file a reply to the final Office action mailed May 10, 2005, which set a three (3) month shortened statutory period for reply. Accordingly, a Notice of Abandonment was mailed November 28, 2005.

The Notice of Appeal filed January 17, 2006 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 1756 for processing of the Notice of Appeal.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 8, 2006

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/300,758 Patent No.: 7,025,290

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Claim 19, col. 18, line 15 was approved for entry by the Examiner on 1/23/2006 (see Examiner approval on 1/23 - Amendment after Allowance)

Cheryl J. Tyler

SPE

3744

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kao H. Lu
686 Lawson Ave.,
Havertown PA 19083

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MAY 16 2005

OFFICE OF PETITIONS

In re Application of :
Chen :
Application No. 10/300,761 : DECISION ON PETITION
Filed: November 21, 2002 :
For: Potable Automated Pipette :

This is a decision on the petition under 37 CFR 1.137(b) filed September 10, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 and 1.116 to the final Office action of December 3, 2003, which set an extendable period for reply of three months. While a reply and a petition and fee for a two month extension of time were filed April 14, 2004, the reply failed to *prima facie* place this application in prima facie condition for allowance as indicated by the Advisory Action mailed June 2, 2004. Accordingly, the date of abandonment is May 3, 2003. A Notice of Abandonment has not been mailed.

This application is restored to pending status and is being referred to the Technology Center for treatment of the reply filed with the petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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P.O. Box 1450
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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST.LOUIS MO 63006

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Rory F. Finn et al :
Application No. 10/300,822 : DECISION ON PETITION
Filed: November 20, 2002 :
Attorney Docket No. PC31384A :

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2007, to revive the above-identified application.

The petition is **GRANTED.**

No Notice of Abandonment has been mailed in this application. However, this application became abandoned by operation of law for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 5, 2007, which set a shortened statutory period for reply of three (3) months. A two month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the date of abandonment of this application is June 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission (amendment) as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of January 5, 2007 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1654 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received July 25, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 22 2009

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of :	:
Kimura et al.	:
Serial No.: 10/300,834	: SUSPENSION OF ACTION
Filed: November 21, 2002	:
Attorney Docket No.: **0020-5062P**	:

This is in reply to a renewed petition (request) under 37 CFR 1.103(a) to suspend action in this application at applicants' request for an additional six month period of time, filed July 14, 2009.

BACKGROUND

Applicants request prosecution in this application be suspended for an additional six months in order to complete the experiments and draft a declaration with regard to the outstanding utility rejection.

DISCUSSION

§ 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 have shown good and sufficient reason for suspension.

DECISION

In view of the above, the petition for suspension of action is **GRANTED** for an additional period of six months from the date of mailing of this decision.

Should applicant obtain the requisite data prior to the expiration of the period of suspension, a submission of the results should be promptly forwarded to the Office so that prosecution may be resumed.

Should there be any questions with respect to this action, please contact the examiner or Marianne Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Yi Han et al :
Application No. 10/300,846 : DECISION GRANTING PETITION
Filed: November 21, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 67824.410101 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance/Notice of Allowability of February 22, 2007, is accepted as having been unintentionally delayed.

Petitioner was informed in the Notice of Abandonment mailed June 19, 2007 that the application became abandoned for failure to timely submit corrected drawings.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Data Management and to oversee the drawings submitted on July 19, 2007.

Karen Creasy
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
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Paper No. 5

ORANGE & CHARI
Suite 4900
P.O. Box 190
66 Wellington St. W.
Toronto, ON M5K 1H6
CANADA

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Joch et al. :
Application No. 10/300,849 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. T50009-0003-US :

This is a decision on the petition filed August 4, 2003, which is being treated as a petition under 37 CFR 1.181 requesting a "refund" of the five month extension of time fee and as a petition under under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 requesting a "refund" is **dismissed**.

The petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment is **dismissed**.

Facts:

A Notice to File Missing Parts was mailed January 2, 2003.

Petitioner has established that the original Notice was never received.

As a result of petitioner's due date system, an inquiry as to the status of the application was made and the existence of the Notice was discovered. Petitioner had the Office send a copy of the Notice by facsimile transmission on July 29, 2003.

With the instant petition, petitioner has filed a request for a five month extension of time and a signed declaration. The instant petition requests that the five month extension of time fee be waived due to non-receipt of the Notice.

The Notice of Missing Parts required replacement drawings to be filed in order to avoid abandonment. Such drawings have not been filed and the application became abandoned on August 3, 2003.

Analysis:

The petitions would normally be granted except for ambiguity which exists concerning the mailing address for petitioner. The address on the petition differs from the address of record. If the Notice was not received because it was sent to an address which was no longer correct, then the Office will not grant the requested relief. Petitioner should address the issue: What was the correct mailing address for petitioner during January of 2003? Any request for reconsideration should explicitly state the address to which future mail should be sent.

Petitioner should file corrected, replacement drawings with any request for reconsideration.

The fee of $130 submitted for the instant petition will be credited to petitioner's deposit account since a fee is unnecessary for a petition under 37 CFR 1.181.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: McCarthy Tétrault LLP
Suite 4700, PO Box 48
66 Wellington St. W.
Toronto Dominion Bank Tower
Toronto Dominion Centre
Toronto, ON M6K 1E6
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

MCCARTHY TETRAULT LLP
SUITE 4900, P.O. BOX 48
66 WELLINGTON ST. WEST
TORONTO, ONTARIO M5K 1E6 CA CANADA

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JAN 05 2004

OFFICE OF PETITIONS

In re Application of :
Joch et al. :
Application No. 10/300,849 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. T50009-0003-US :

This is a decision on the renewed petition filed December 8, 2003, which is being treated as a petition under 37 CFR 1.181 requesting a "refund" of the five month extension of time fee and as a petition under under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 requesting a "refund" is **dismissed**.

The petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment is **dismissed**.

Facts:

A Notice to File Missing Parts was mailed January 2, 2003.

Petitioner relocated offices on January 6, 2003.

Petitioner states that the prior address was monitored for a substantial period of time after the move.

Petitioner has established that the original Notice was never received.

On March 19, 2003, petitioner submitted a change of address for petitioner's customer number. However, since a customer number was not associated with the address for the instant application, the address was not changed for the application. A copy of the declaration listing the correspondence address is attached. Prior to the mailing of the instant decision, the address was changed to the address for petitioner's customer number.

As a result of petitioner's due date system, an inquiry as to the status of the application was made and the existence of the Notice was discovered. Petitioner had the Office send a copy of the Notice by facsimile transmission on July 29, 2003.

With the instant petition, petitioner has filed a request for a five month extension of time and a signed declaration. The instant petition requests that the five month extension of time fee be waived due to non-receipt of the Notice.

The Notice of Missing Parts required replacement drawings to be filed in order to avoid abandonment. Such drawings have not been filed and the application became abandoned on August 3, 2003.

Analysis:

The petitions would normally be granted except for the possible effect of the change of address. Petitioner relocated offices 4 days after the mailing of the Office action.

Petitioner states that the prior address was monitored for a substantial amount of time. The Office does not wish to make assumptions regarding the meaning of "monitored" and "substantial" and therefore seeks clarification. Did an employee check mail which was sent to the old address? When did mail cease being delivered to the old address and begin to be forwarded by the Post Office to the new address? The Office wishes for petitioner to clarify the exact meaning of "monitored" and "substantial."

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand:[1] U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: copy of originally filed declaration

[1] If the response is mailed using a service other than the United States Postal Service, such as Federal Express or United Parcel Service, then this address may be used by such service.

UNITED STATES 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

MCCARTHY TETRAULT LLP
SUITE 4900, P.O. BOX 48
66 WELLINGTON ST. WEST
TORONTO, ONTARIO M5K 1E6 CA CANADA

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APR 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Joch et al. :
Application No. 10/300,849 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. T50009-0003-US :

This is a decision on the renewed petition filed January 5, 2004, which is being treated as a petition under 37 CFR 1.181 requesting a "refund" of the five month extension of time fee and as a petition under under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 requesting a "refund" is **granted**.

The petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment is **granted**.

A Notice to File Missing Parts was mailed January 2, 2003.

With a prior petition, petitioner has filed a request for a five month extension of time and a response to the Notice to File Missing Parts in the form of a signed declaration. The petition requests that the five month extension of time fee be waived due to non-receipt of the Notice.

The Notice of Missing Parts required replacement drawings to be filed in order to avoid abandonment. Such drawings were not timely filed and the application was deemed abandoned on August 3, 2003.

Analysis:

Petitioner has established that the original Notice was never received.

The fee for a five month extension of time will not be charged to petitioner's deposit account.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCCARTHY TÉTRAULT LLP
BOX 48, SUITE 4700
66 WELLINGTON STREET WEST
TORONTO, ON
M5K 1E6 CA
CANADA

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AUG 0 3 2007

OFFICE OF PETITIONS

Applicant: Joch et. al
Appl. No.: 10/300,849
Filing Date: November 21, 2002
Title: LOW COMPLEXITY DEBLOCKING FILTER
Attorney Docket No.: 178827-321406 (T1176-3-US)
Pub. No.: US 2006/0104349 A1
Pub. Date: May 18, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 18, 2006, for the above-identified application

Applicant requests that the application be republished because the patent application publication contains material errors in paragraphs [0023], [0073], [0077], [0082], [0087], [0095], [0099], and [0102].

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,227,901 on June 5, 2007, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
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.: _____

DATE : Oct. 30, 2008

TO SPE OF : ART UNIT 3661
SUBJECT : Request for Certificate of Correction for Appl. No.:/10/300852 / 6957131

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 3661

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.
10/300,852	11/21/2002	Mark Edward Kane	3805-009-27	7379

24510 7590 02/25/2009

DLA PIPER LLP (US)
ATTN: PATENT GROUP
500 8th Street, NW
WASHINGTON, DC 20004-2131

EXAMINER	
BEAULIEU, YONEL	

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
02/25/2009	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090220A

DATE : February 25, 2009

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 6957131

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 cerficate of correction of 9/10/07 has been approved as the errors are minor in nature and do not affect the scope of the patent.

SPE: /Thomas G. Black/ Art Unit 3661

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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SEP 0.5 2006
OFFICE OF PETITIONS

In re Patent No. 6,977,632

Issue Date: December 20, 2005

Application No. 10/300,868

Filed: November 21, 2002

Attorney Docket No. Q72493

ON PETITION

This is a decision on the petition filed June 21, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Wendy Naimark	: DECISION ON REQUEST FOR
Patent Number	: 7611482	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/300,881	: 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 **671** 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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Richard F. Jaworski
COOPER & DUNHAM LLP
1185 Avenue Of The Americas
New York, N.Y. 10036

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of:
HARVEY, Richard, Hans
Application No.: 10/300,885
Filing Date: November 21, 2002
Attorney's Docket No.: 655/71347-VA
For: DIRECTORY SERVICES SYSTEM AND METHODS WITH MAPPING IN DATABASE TABLES

DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 04, 2005 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed August 13, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on November 13, 2004.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed August 13, 2004; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of August 13, 2004 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 2162

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office Of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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MAR 31 2003

OFFICE OF THE DIRECTOR
TC 3600

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

Paper No. 4

In re application of
William Z. Goldstein
Application No. 10/300,895
Filed: November 21, 2002
For: METHOD AND SYSTEM FOR AIRLINE TICKET TRANSACTION

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on March 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 requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

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.

The petition indicates that a check for the petition fee was attached. However, there is no record of the fee having been received. Accordingly, the petition fee of $130 will be charged to deposit account number 19-4880. If applicant can show evidence of the fee having been paid, then applicant should file a request for a refund of the petition fee.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868
(703) 605-0586

SNM/tpl: 3/27/03

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STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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AUG 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Stephen Roux :
Application No. 10/300,898 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 1857.0770000 :

This is a decision on the petition, filed July 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This application issued into Patent No. 6,770,895 on August 3, 2004.

The petition is **DISMISSED as moot.**

Unfortunately, the petition reached the appropriate official for decision after the patent issued on the above-identified application.[1] The inconvenience caused petitioner in this matter is sincerely regretted.

The Request for Continued Examination (RCE) submitted with the petition is not effective and will not be entered since the petition to withdraw from issue is dismissed. Therefore, the filing fee of the RCE will be credited to deposit account no. 19-0036 as authorized.

Petitioner is reminded that petitions to withdraw from issue should either be faxed to the Office of Petitions at (703) 305-4257 or hand carried to Crystal Plaza 4, Suite 3C23.

Petitioner's attention is also directed to 37 CFR 1.313(d), which states: A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue."

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

---

[1] The instant petition was received in the Office of Petitions on August 6, 2004, after issuance of the instant application into a patent.

This patented file is being forwarded to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ALEXANDRIA, VA 22313-1450
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Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAY 13 2004

OFFICE OF PETITIONS

Applicant: Phipps
Appl. No.: 10/300,913
Filing Date: November 21, 2002
Title: TREATMENT OF SOLID CONTAINING MATERIAL DERIVED FROM EFFLUENT
Attorney Docket No.: 08683.0023-02
Pub. No.: US 2003/0234088 A1
Pub. Date: December 25, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on February 25, 2004.

The request is DISMISSED.

The instant request is that the patent application publication, which published on December 25, 2003, be republished because the publication includes a material error in that it did not include the preliminary amendment to the claims filed on December 15, 2003.

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 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**.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant did not supply a copy of the application in compliance with § 1.215(c). Even if applicant had supplied a copy of the application in compliance with the Office electronic filing system on December 15, 2003, it would have been received too late to be used in the patent application publication on December 25, 2003. The Office correctly published the application in accordance with § 1.215(a).

Applicant is reminded of her duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication on February 25, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended. By publishing applications as amended, it is anticipated that the invention claimed in the published patent application is more likely to be "substantially identical" to the invention claimed in the issued patent, as required by 35 U.S.C. 154(d)(2). Moreover, by publishing applications as amended, the public has a better opportunity to determine the invention for which a patent is actually being sought, **as only the claims for which applicant has paid, and that are subject to examination, will be reflected in the patent application publication**. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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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FEB 09 2005

OFFICE OF PETITIONS

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

Applicant: Phipps
Appl. No.: 10/300,913
Filing Date: November 21, 2002
Title: TREATMENT OF SOLID CONTAINING MATERIAL DERIVED FROM EFFLUENT
Attorney Docket No.: 08683.0023-02
Pub. No.: US 2003/0234088 A1
Pub. Date: December 25, 2003

This is in response to the "Request For Corrected Patent Application Publication Under 37 CFR 1.221(b)," which was received on August 24, 2004.

The request is DISMISSED.

The request is dismissed, as the attorney did not supply her name in compliance with 37 CFR 1.34. An attorney must specify (1) his or her registration number and (2) name with (3) his or her signature when acting in a representative capacity.

> 1.34 Acting in a representative capacity. When a registered patent attorney or patent agent acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party in whose behalf he or she acts. In filing such a paper, the registered patent attorney or patent agent must specify his or her registration number and name with his or her signature. Further proof of authority to act in a representative capacity may be required.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

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OFFICE OF PETITIONS

In re Application of	:	
Mehmet Celik	:	
Application No. 10/300,921	:	ON APPLICATION FOR
Filed: November 19, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. P0691	:	
	:	
Title: WATERMARK PLACEMENT IN WATERMARKING OF TIME VARYING MEDIA SIGNALS	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT (Request for Reconsideration of PTO's Patent Term Adjustment Determination) 37 CFR 1.705(b)," filed February 18, 2009. Applicant requests that the determination of patent term adjustment indicated in the notice of allowance be increased from six hundred ninety-three (693) days to one thousand nine hundred eighty-four (1984) days. Applicant requests this correction on the basis that the Office will take three years and 1291 days to issue this patent[1] and in light of the recent court decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008)[2].

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to

[1] This calculation is based on an issue date of June 2, 2009.
[2] With respect to days excluded as being consumed by appellate review, applicants note that a notice of appeal was filed, but prosecution was reopened after a Request for Pre-Appeal Brief Conference. See 35 U.S.C. 154(b)(2)(B)(iii).

the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[3].

[3] 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

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

notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

Mail Date: 04/21/2010

Applicant	: Mehmet U. Celik	: DECISION ON REQUEST FOR
Patent Number	: 7577841	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/300,921	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1727** 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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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

Mail Date: 05/18/2010

Applicant : Mehmet U. Celik
Patent Number : 7577841
Issue Date : 08/18/2009
Application No: 10/300,921
Filed : 11/19/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1813** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

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JAN 30 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Henry et al. :
Application No. 10/300,933 :
Filed: November 20, 2002 :
Attorney Docket No. CNTR.2065 :

This is a decision on the Request for Corrected Filing Receipt filed July 25, 2005, requesting that the above-identified application be accorded a filing date of November 20, 2002, rather than the presently accorded date of November 21, 2002. The request is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on November 20, 2002, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EO 000369325 US, showing a handwritten "date-in" of "November 20, 2002." The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on November 20, 2002.

The petition is **GRANTED**.

This matter is being referred to Technology Center 2100 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

BAKER & MCKENZIE LLP
805 THIRD AVENUE - 29TH FLOOR
NEW YORK, NY 10022

MAR 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of)
Anjur S. Krishnakumar)
Application No. 10/300, 943)
Filed: November 20, 2002)
For: **MOBILE WIRELESS NETWORK AND METHOD**)

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 December 09, 2002.

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:
Ms. Susan Curry
Lucent Technologies, Inc.
Room 3J-220
101 Crawfords, Corner Road
Holmdel, New Jersey 07733-3030

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

Rogers Towers, P.A.
1301 Riverplace Blvd.
Suite 1500
Jacksonville, FL 32207

MAILED

AUG 02 2005

Director's Office
Group 3700

In re Application of	:	
JONES ET AL.	:	
Serial No. 10/300,968	:	Decision on
Filed November 20, 2002	:	Petition
For: Improved Truck Box Lid	:	

A Notice of Abandonment for the above-identified application was mailed October 24, 2004. Applicant filed a petition to withdraw the Holding of Abandonment under 37 CFR 1.8, reviewed under 37 CFR 1.181, on November 5, 2004. In the petition applicant provides a copy of the response received February 13, 2004 and a copy of the certificate of mailing the date of mailing as February 11, 2004. Applicant further personally attests to the mailing of the response on the date of the certificate of mailing and suggests that the certificate was misplaced by the USPTO.

In view of the above, the Notice of Abandonment mailed October 24, 2004 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

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MAR 30 2007

OFFICE OF PETITIONS

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MAR 30 2007

OFFICE OF PETITIONS

CANCELLED

GATEWAY, INC.
ATTN: Patent Attorney
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY SD 57049

In re Application of :
Leapman : DECISION ON PETITION
Application No. 10/301,003 :
Filed: November 21, 2002 :
Atty. Docket No.: P1911US00 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance mailed December 28, 2005. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed May 12, 2006.

A grantable petition pursuant to 37 CFR 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 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition fails to satisfy requirement 37 CFR 1.137(b)(2). Office finance records reveal applicant is a large

entity. Petitioner submitted the petition fee in the amount required for a small entity.

Any renewed petition must be accompanied by the required fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GATEWAY, INC.
ATTN: Patent Attorney
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY SD 57049

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Leapman : DECISION ON PETITION
Application No. 10/301,003 :
Filed: November 21, 2002 :
Atty. Docket No.: P1911US00 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance mailed December 28, 2005. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed May 12, 2006.

A grantable petition pursuant to 37 CFR 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 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The above-identified application has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC19 NOV 13 2003 PATENT & TRADEMARK OFFICE

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Paper No. 4

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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OCT 23 2003

OFFICE OF PETITIONS

In re Application of :
Okubora, et al. :
Filed: November 21, 2002 : ON PETITION
Application No. 10/301,008 :
Atty. Dkt. No.: 9792909-5531 :

This decision in response to the "PETITION TO FILE OMITTED ITEMS IN A NONPROVISIONAL APPLICATION," filed April 21, 2003, in response to the "Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed February 14, 2003.

The application was filed November 21, 2002. The Notice mailed February 14, 2003 by the Office of Initial Patent Examination indicated that the application had been accorded a filing date but that figures 30, 31, and 32 appeared to have been omitted from the specification.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

In response to the Notice, petitioner has submitted the omitted items upon petition and indicates that the items were inadvertently omitted from the application filing. Petitioner

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DOCKETED Decision Pet
DIARIED 10/29/03
BY. LK

OIPE OCT 23 2003

further argues that the omitted items were incorporated by reference into the divisional application.

Petitioner requests, in effect, that figures 30, 31, and 32 be entered into the record and that the application be accorded a filing date of November 21, 2002.

An incorporation by reference statement may be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. *See*, MPEP 201.06(c).

Accordingly, in view of the incorporation by reference of the prior application, figures 30, 31, and 32 are not new matter if these pages were part of the disclosure of the prior application.

Petitioner is advised to promptly submit a preliminary amendment requesting entry of the omitted figures prior to the issuance of the first Office action on the merits.

The petition fee of $130.00 has been charged to deposit account No. 02-4300. The petition fee will not be refunded since the petition was necessary to correct petitioner's filing error.

In view of the above, the petition is **DISMISSED**.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 21, 2002.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

OIPE JC100
NOV 13 2003
PATENT & TRADEMARK OFFICE

PATENT

Client Name & No.: Sony Corp. #09792909-5531

Applicant: Okubaka P

Ser.# / Pat.# 10/301,008 Due Date: 4/14/03

☐ U.S. national phase application based on PCT/JP___

Please acknowledge receipt of:

- ☐ Application having __ pages of specification and claims, and ___ sheets of drawings, FIG(S)___
  - ☐ Declaration / Oath
  - ☐ Power of Attorney
  - ☐ Small Entity Statement
  - ☐ Check #_____
- ☐ Patent Assignment Cover Sheet
  - ☐ Assignment
  - ☐ Check #_____
- ☐ Letter
- ☐ Information Disclosure Statement
  - ☐ Form PTO-1449 & Refer.
  - ☐ Certification
  - ☐ Petition
  - ☐ Check #_____

Mailed 4/14/03

- ☐ Preliminary Amendment
- ☐ Request for Priority and Pri. Doc.
- ☐ Reply to Office Action
  - ☐ Request for Ext. of Time
  - ☐ Check #_____
- ☐ Amendment After Final Rejection
  - ☐ Request for Ext. of Time
  - ☐ Check #_____
- ☐ Corrected Drawings
- ☐ Issue Fee Transmittal
  - ☐ Check #_____
- ☑ Other: Submission of Omitted Item of Appln.
- ☑ Form 2038
- ☑ Cert. of Mailing

Express Mail No. _____

By Jgr

OIPE
NOV 13 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PETITION TO FILE OMITTED ITEMS IN A NONPROVISIONAL APPLICATION

APPLICANT(S):	A. Okubora et al.	ATTY DOCKET NO.:	09792909-5531
SERIAL NO.:	10/301,008	GROUP ART UNIT:	Unknown
DATE FILED:	November 21, 2002	EXAMINER:	Unknown
INVENTION:	"OPTICAL WAVEGUIDE AND METHOD OF PRODUCING SAME"		

Hon. Assistant Commissioner of Patents

Washington, DC 20231

S I R:

Applicants hereby petition for entry of the herewith submitted Figures 30, 31 and 32 into the specification of the present application, which Figures 30, 31 and 32 were inadvertently omitted at the time of filing the present application.

Facts

The present application was filed on November 21, 2002.

The present application is a divisional application of U.S. Serial No. 09/422,255, which was filed on October 21, 1999.

Parent application Serial No. 09/422,255 contained figures 30, 31 and 32, as submitted herewith, as part of its specification.

A signed declaration in compliance with 37 C.F.R. 1.63 and 1.64 was filed in parent application Serial No. 09/422,255. The signed declaration filed in the parent application attests to the fact that the present inventor reviewed the parent application, including Figures 30, 31 and 32, at the time of filing.

The present application incorporates parent application Serial No. 09/422,255 by reference.

A Notice of Omitted Items in a Nonprovisional Application was issued on February 14, 2003. The Notice of Omitted Items stated that Figures 30, 31 and 32 were omitted from the specification of the present application at the time of filing. A copy of the Notice of Omitted Items is filed herewith.

Arguments

It is respectfully requested that the herewith submitted Figures 30, 31 and 32 be entered into the specification of the present application.

It is respectfully submitted that the omission of Figures 30, 31 and 32 at the time of filing was inadvertent and due to clerical error.

It is further respectfully submitted that the present application is a divisional application of parent application Serial No. 09/422,255. Figures 30, 31 and 32 were filed in parent application Serial No. 09/422,255, which parent application is incorporated by reference into the present application. Accordingly, no new matter is added by the present submission of figures 30, 31 and 32.

Applicants filed a declaration in parent application Serial No. 09/422,255 in compliance with 37 C.F.R 1.63 and 1.64. Thus, Applicants have declared that Applicants have reviewed the subject matter of the parent specification including Figures 30, 31 and 32, which parent application is included in the present application by reference. Accordingly, Applicants respectfully submit that a supplemental declaration is not required with this petition. A copy of Applicants' declaration from parent application Serial No. 09/422,255 is enclosed herewith.

Applicants respectfully submit that the filing date of November 21, 2002 be maintained in the present application as no new matter is submitted with the present submission of Figures 30, 31 and 32. Figures 30, 31 and 32 were present and attested to in parent application Serial No. 09/422,255, which parent application is incorporated by reference into the present application.

Fee

The Commissioner is hereby authorized to charge Applicants' Attorney's credit card account for the required fee of $130.00 as set forth in 37 C.F.R. §1.17(h). If the Commissioner determines that additional fees are required, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 19-3140. Form 2038 is enclosed. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

(Reg. No. 45,034)
Christopher P. Rauch
SONNENSCHEIN, NATH & ROSENTHAL
P.O. Box #061080
Wacker Drive Station - Sears Tower
Chicago, IL 60606-1080
Telephone 312/876-2606
Customer #26263
Attorneys for Applicant(s)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited as First Class Mail in an envelope addressed to Assistant Commissioner of Patents, Washington, D.C. 20231 on April 14, 2003.

(Reg. No. 45,034)
Christopher P. Rauch

OIPE JC18
NOV 13 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SUBMISSION OF OMITTED ITEM IN A NONPROVISIONAL APPLICATION

APPLICANT(S):	A. Okubora et al.	ATTY DOCKET NO.:	09792909-5531
SERIAL NO.:	10/301,008	GROUP ART UNIT:	Unknown
DATE FILED:	November 21, 2002	EXAMINER:	Unknown
INVENTION:	"OPTICAL WAVEGUIDE AND METHOD OF PRODUCING SAME"		

Hon. Assistant Commissioner of Patents

Washington, DC 20231

S I R:

Applicant hereby requests entry of the herewith submitted Figures 30, 31 and 32 into the drawings of the present application, which Figures 30, 31 and 32 were inadvertently omitted at the time of filing the present divisional application. No new matter is added thereby.

Respectfully submitted,

Christopher P. Rauch (Reg. No. 45,034)
Christopher P. Rauch
SONNENSCHEIN, NATH & ROSENTHAL
P.O. Box #061080
Wacker Drive Station - Sears Tower
Chicago, IL 60606-1080
Telephone 312/876-2606
Customer #26263
Attorneys for Applicant(s)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited as First Class Mail in an envelope addressed to Assistant Commissioner of Patents, Washington, D.C. 20231 on April 14, 2003.

Christopher P. Rauch (Reg. No. 45,034)
Christopher P. Rauch

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Richard C. Beckett et al :
Application No. 10/301,027 : ON PETITION
Filed: November 20, 2002 :
Attorney Docket No. 42390P14963 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 9, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 31, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2182 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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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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APR 29 2009

OFFICE OF PETITIONS

In re Application of
Richard C. Beckett, et al.
Application No. 10/301,027
Filed: November 20, 2002
Attorney Docket No. P14963

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 17, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before November 19, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed August 19, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 20, 2008. A Notice of Abandonment was mailed on December 12, 2008. On February 17, 2009 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 $1,510 issue fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kevin L. Russell
Suite 1600
601 SW Second Ave.
Portland OR 97204-3157

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APR 21 2006

OFFICE OF PETITIONS

In re Application of :
Paul PFAFF et al. :
Application No. 10/301,030 : DECISION ON PETITION
Filed: November 20, 2002 : TO WITHDRAW FROM
Attorney Docket No. 68920-3 : RECORD AND REVOCATION
: REQUEST

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed July 28, 2005 and the Revocation of Power of Attorney filed October 4, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Kevin L. Russell, petitioner herein, does not have power of attorney in this patent application as the Power of Attorney filed March 4, 2003 was not accompanied by a statement under 3.73(b). Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable. Additionally, the Revocation of Power of Attorney filed October 4, 2005 is not acceptable as it was not accompanied by a statement under 3.73(b).

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant or the assignee. A courtesy copy of this communication is being mailed to the inventor and to the address noted on the request to revoke power of attorney.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 3218.

David Bucci
Petitions Examiner
Office of Petitions

cc:

Paul Pfaff
Attofemto, Inc.
14535 West Lake Drive, Suite A-1
Lake Oswego, OR 97035

Davis Wright Tremaine, LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688

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P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIS WRIGHT TREMAINE LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

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NOV 14 2006
OFFICE OF PETITIONS

In re Application of :
Pfaff, et al. :
Application No. 10/301,030 : DECISION ON PETITION
Filed: November 20, 2002 :
Attorney Docket No. 68920-3 :

This is a decision on the "PETITION UNDER 37 C.F.R. 1.182 FOR QUESTIONS NOT SPECIFICALLY PROVIDED FOR AND/OR PETITION UNDER 37 C.F.R. 1.183 FOR SUSPENSION OF RULES", filed August 21, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

It is obvious from reviewing the file that the Office erroneously accorded the application a filing date of March 4, 2003. It is also apparent that the Office erred in the priority data for the application. From reviewing the declaration filed on March 4, 2003, it is clear that the priority claim was to provisional application no. 60/337,419, not application no. 60/377,419.

The matter is being forwarded to the Office of Initial Patent Examination for correction of the filing date to November 20, 2002. OIPE is also directed to change the priority claim to application no. 60/337,419.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

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SEP 26 2006
OFFICE OF PETITIONS

In re Application of :
Steven W. Kim et al :
Application No. 10/301,061 : DECISION ON PETITION
Filed: November 20, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. FRGT-N-Z003.00-US :

This is a decision on the petition, filed July 6, 2006, 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**.

Office records show that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 20, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

> (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 28, 2006 was mailed under separate cover on September 21, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center Art Unit 3731 to await a reply to the non-final Office action mailed June 29, 2006. Petitioner is advised that failure to timely reply will again result in the abandonment of the application.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

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OCT 22 2007
OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application No. 10/301,061 : DECISION ON PETITION
Filed: 11/20/2002 :
Attorney Docket No. FRGT-N-Z003.00-US :

This is a decision in response to the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(2) and the petition under 37 CFR 1.48(a) to delete a named inventor, filed September 12, 2007.

The petitions are **DISMISSED**.

Petitioners are 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 1.183 and Petition Under 37 CFR 1.48(a)." Any extensions of time will be governed by 37 CFR 1.136(a).

Petitioners request that the Neil Bruce Holmgren be deleted as an inventor from this application. Petitioners assert that is Mr. Holmgren unavailable to provide a statement that the error in inventorship occurred without deceptive intention on his part as Mr. Holmgren is currently serving onboard a merchant marine ship. Therefore, petitioners seek relief under 37 CFR 1.48(a) and 37 CFR 1.183.

Pursuant to 37 CF 1.183,

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f)

Pursuant to 37 CFR 1.48(a):

> *Nonprovisional application after oath /declaration filed.* If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
>
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The facts presented in the petition support a finding that Mr. Holmgren is unavailable to provide a statement under 37 CFR 1.48(a)(2) that the error in inventorship occurred without deceptive intention on his part. However, petitioners have failed to meet the requirements of 37 CFR 1.48(a)(3). Specifically, the declaration submitted on petition is unacceptable as it fails to comply with 37 CFR 1.63(c) (1) and 37 CFR 1.76(c). The Office notes: "Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor." 37 CFR 1.63(c)(1). While the mailing address and residence of an inventor may be submitted by way of Application Data Sheet (ADS) under 37 CFR 1.76, any ADS submitted after submission of a declaration must be entitled "SUPPLEMENTAL APPLICATION DATASHEET." If no ADS was originally filed, but applicant wants to submit an ADS to correct, modify, or augment the original application data, the ADS, even though it is the first-filed ADS, must be titled "Supplemental Application Data Sheet." See MPEP 601.05 and 37 CFR 1.76(c). Additionally, the "Supplemental Application Data Sheet" must include all seven section headings listed in § 1.76(b) with the appropriate data for each section heading, as well as identify the information that is being changed, preferably with underlining for insertions, and strike-through or brackets for text removed. Id.

Therefore, correction is required by way of a newly executed oath or declaration or submission of a "Supplemental Application Data Sheet." Accordingly, the petition under 37 CFR 1.48(a) is **dismissed**. Furthermore, the petition under 37 CFR 1.183 is **dismissed** without prejudice until the requirements of 37 CFR 1.48(a)(3) are met.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence related to this decision may also be submitted via the USPTO's Electronic Filing System.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application No. 10/301,061 : DECISION ON PETITION
Filed: 11/20/2002 :
Attorney Docket No. FRGT-N-Z003.00-US :

This is a decision in response to the renewed petition under 37 CFR 1.183 and the renewed request under 37 CFR 1.48(a) to delete a named inventor, filed November 27, 2007.

On September 12, 2007, petitioners filed a request under 37 CFR 1.48(a) to delete a named inventor Neil Holmgren from the application. Additionally, petitioners filed a petition under 37 CFR 1.183 to waive the requirement for a statement under 37 CFR 1.48(a)(2) by Mr. Holmgren that the error in inventorship occurred without deceptive intention on his part because he was unavailable at the time to sign such a statement. The petition under 37 CFR 1.183 and the request under 37 CFR 1.48(a) were dismissed by the decision of October 22, 2007.

In the present renewed petition, petitioners state that Mr. Holmgren has since returned to the United States and has signed the appropriate Statement in Support of Request for Correction of Inventorship pursuant to 37 CFR 1.48(a)(2). A copy of his executed statement accompanies the renewed petition. Accordingly, petitioners assert that consideration under 37 CFR 1.183 is no longer necessary as they have satisfied the requirements under 37 CFR 1.48(a) without the need for a waiver.

In view thereof, the petition under 37 CFR 1.183 is **dismissed.**

As to the renewed request under 37 CFR 1.48(a),

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Upon reviewing the documents submitted with the petitions, the Office concludes that the inventive entity was set forth in error in the executed declaration in the present nonprovisional application, and such error arose without any deceptive intention on the part of Mr. Holmgren, the person named as an inventor in error. Accordingly, petitioners have meet the requirements under 37 CFR 1.48(a).

The renewed request under 37 CFR 1.48(a) is **granted**. The inventorship of the nonprovisional application has been corrected in the record to name only the actual inventors, Steven W. Kim and Brian K. Shiu. A corrected filing receipt accompanies this decision.

The $130.00 petition fee is unnecessary and will be refunded to petitioners' credit card.

The application will be referred to Technology Center Art Unit 3731.

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

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
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/301,061	11/20/2002	3731	933	FRGT-N-Z003.00-US	54	4

CONFIRMATION NO. 8269

CORRECTED FILING RECEIPT

40518
LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

Date Mailed: 01/03/2008

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)

Steven W. Kim, Los Altos, CA;
Brian K. Shiu, Sunnyvale, CA;

Power of Attorney:
David Levine--48821

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/333,373 11/26/2001

Foreign Applications

If Required, Foreign Filing License Granted: 01/03/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/301,061**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Devices and methods for treatment of vascular aneurysms

Preliminary Class

606

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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Ford Global Technologies, LLC.
Suite 600 – Parklane Towers East
One Parklane Boulevard
Dearborn, MI 48126

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
Devesh Upadhyay, et al. :
Application No. 10/301,077 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 202-1376 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 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 slightly 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 (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Motorola, Inc.
Law Department
1303 East Algonquin Road
3rd Floor
Schaumburg IL 60196

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of :
Paul Moroney et al. :
Application No. 10/301,092 : ON PETITION
Filed: November 20, 2002 :
Attorney Docket No. D02841 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 Restriction Requirement mailed January 10, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of

this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2137 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Thomas Bethea, Jr.**
101 Tournament Drive
Horsham, PA 19044

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Paper No. 8

RUDOLPH J. BUCHEL JR., LAW OFFICE OF
P. O. BOX 702526
DALLAS, TX 75370-2526

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Aiyer : DECISION ON PETITION
Application No. 10/301,103 :
Filed: November 21, 2002 :
Atty. Dkt. No.: 946959600020 :

This is a decision on the petition under 37 CFR 1.137(b) filed July 12, 2004.

The application became abandoned February 19, 2003 for failure to timely reply to the Notice to Missing to File Corrected Application Papers ("Notice") mailed December 18, 2002. The Notice set a two (2) month shortened statutory period for reply. No petition for extension of time in accordance with 37 CFR 1.136 was timely filed. Notice of Abandonment was mailed June 2, 2004.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Notice mailed December 18, 2002 is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding the content of this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVE
NEW YORK NY 10022-2585

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of
Akane, et al. :
Application No. 10/301,104 : DECISION ON
Filed: November 21, 2002 : PETITION
Attorney Docket No. WAKA 20.137 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed September 9, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely submit formal drawings as required by the Notice of Allowability mailed on November 5, 2004. This notice set a non-extendable period for reply of three months. No corrected drawings having been received, the above-identified application became abandoned on February 6, 2005. A Notice of Abandonment was mailed on August 3, 2005.

With the instant petition, petition paid the petition fee, submitted formal drawings, and made the proper statement of unintentional delay.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

#7

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

Janice Leverett
Soules & Wallace, P.C.
Frost Bank Tower
100 W. Houston Street, Suite 1500
San Antonio, TX 78205

MAILED

JUN 05 2003

Office of the Director
Group 3600

In re application of
Thomas Ragan Vester
Application No.10/301,106 :
Filed: November 21, 2002 :
For: VEHICULAR ACCESSORY DEVICE :

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on April 18, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided. Please note that the reason of attorney leaving the firm is not a proper reason as enumerated since the Power of Attorney is specifically to an individual instead of others within the firm.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/dxn: 6/3/03

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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FEB 06 2004

Office of the Director
Group 3600

Janice Leverett
Soules & Wallace, P.C.
Frost Bank Tower
100 W. Houston Street, Suite 1500
San Antonio, TX 78205

Paper No.9

In re application of
Thomas Ragan Vester
Application No.10/301,106 : DECISION ON REQUEST
Filed: November 21, 2002 : FOR WITHDRAWAL OF
For: VEHICULAR ACCESSORY DEVICE : ATTORNEY

This is a decision on the renewed request filed August 20, 2003, under 37 CFR 1.36 and MPEP 402.06, which has been treated as a petition 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 letter dated May 23, 2003 and signed by Mr. Vestor states that the complete files were to be delivered to Janice Leverett for her sole representation from and after this date. The letter further states that Ms. Leverett "shall have full and sole responsibility for our matters, to the exclusion of Soules & Wallace. Soules & Wallace is hereby discharged and released from any and all further responsibility in connection with such matter."

The letter dated July 2, 2003 and signed by Mr. Vestor acknowledges receipt of the Client File from Soules & Wallace and again releases Soules & Wallace from any and all further responsibility involving the file.

At the time the Client File was obtained by Mr. Vestor, Ms. Leverett had full and sole responsibility, not Soules and Wallace. There is no evidence of record that Mr. Vestor released Ms. Leverett from further responsibility relative to the Client File. Thus, subsection (5) of 37 CFR 10.40(c) is not satisfied.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/mjz: 1/29/04

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Thomas R. Vester
P.O. Box 2352
Boerne, TX 78006

In re application of :
Thomas Ragan Vester :
Application No. 10/301,106 : **DECISION ON REQUEST**
Filed: November 21, 2002 : **FOR WITHDRAWAL OF**
For: VEHICULAR ACCESSORY DEVICE : **ATTORNEY**

This is a decision on the request filed on March 9, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect mailed April 16, 2004.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/vdb: 8/17/04

cc:

Soules & Wallace, P.C.
ATTN: Janice Leverett
Frost Bank Tower
100 W. Houston Street, Suite 1500
San Antonio, TX 78205

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ATMI, INC.
7 COMMERCE DRIVE
DANBURY, CT 06810

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MAY 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Chongying Xu, et al. :
Application No. 10/301,109 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. ATMI-588 :

This is a decision on the petition, filed April 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signatures of Steven J. Hultquist and Tristan A. Fuierer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that they are authorized to represent the particular party on whose behalf they act. However, if the petitioner desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to 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.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 10, 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]

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Steven J. Hultquist
Tristan A. Fuierer
Intellectual Property/Technology Law
P.O. Box 14329
Research Triangle Park, NC 27709

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-4-09 Paper No.: _____

TO SPE OF : ART UNIT 2893

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/501,109 Patent No.: 7406488

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should COFC be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Ennis Yamb
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.

NN ☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

/Davienne Monbleau/ 2893
SPE **Art Unit**

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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DEC 11 2008

OFFICE OF PETITIONS

In re Application of :
ONGGOSANUSI, et al. :
Application No. 10/301,115 : DECISION ON PETITION
Filed: November 21, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **TI-33760** :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 12, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 13, 2008.

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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1540; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and fee of $130 as required by the double patenting rejection of October 12, 2007.

The terminal disclaimer filed May 14, 2008 has been entered and made of record.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Robert N. Rountree appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Rountree desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is

being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The application is being referred to Technology Center Art Unit 2616 for consideration of the amendment filed May 14, 2008.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **ROBERT N. ROUNTREE**
70360 HIGHWAY 69
COTOPAXI, CO 81223

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of :
Michael E. RUPP :
Application No. 10/301/170 : DECISION ON PETITION
Filed: November 20, 2002 :
Attorney Docket No. **42P15153** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 01, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 16, 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 February 17, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of 1,500; and 3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of November 16, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application file is being referred to Technology Center AU 2611 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OFFICE OF PETITIONS

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

In re Patent No. 6,940,888	:	
Issue Date: September 6, 2005	:	
Application No. 10/301,186	:	NOTICE
Filed: November 21, 2002	:	
Attorney Docket No. NWAV 1003-1 US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

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Stephen C. Werner, Jr.
321 E. Milwaukee Street
Janesville WI 53545

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OFFICE OF PETITIONS

In re Application of :
Guse, et al. :
Application No. 10/301,206 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. INTELLECTUAL :
PROPERTY ASSET TITLE INSURANCE :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned August 22, 2007 for failure to timely submit a proper reply to the non-final Office action mailed May 21, 2007. The non-final Office action set at three month shortened statutory period of time for reply. Notice of Abandonment was mailed January 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the required petition fee; and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The power of attorney submitted herewith has not been entered into the record as it has not been properly executed by all of the inventors named in the application or the assignee in accordance

with 37 CFR 1.33(b). Thus, there is no indication that practitioner herein has been properly empowered to represent applicants. Moreover, the correspondence address indicated in the instant petition differs from that currently of record. If practitioner desire to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office. Please be advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Frank Z. Yang
Murphy Desmond S.C.
P.O. Box 2038 Madison, Wisconsin 53701-2038

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OFFICE OF PETITIONS

In re Patent No. 7,457,736	: DECISION ON
Issued: November 25, 2008	: PETITION UNDER 37 CFR 1.183
Application No. 10/301,225	: and on
Filed: November 21, 2002	: APPLICATION
Attorney Docket No.: NMTI 1003-1	: FOR PATENT TERM ADJUSTMENT

This is a decision on the "PETITION UNDER 37 CFR 1.183 FOR SUSPENSION OF 37 CFR 1.705(d) DEADLINE FOR SUBMISSION OF PATENT TERM ADJUSTMENT REQUEST", requesting that the Office suspend the rules and consider on the merits a request for reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the request for reconsideration of PATENT TERM ADJUSTMENT, all of which were filed on May 11, 2009.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On November 25, 2008, the above-identified application matured into U.S. Patent No. 7,457,736, with a revised patent term adjustment of 654 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that any request for reconsideration of the patent term adjustment indicated in an issued patent must be filed within two months of the date the patent issues; and (ii) consider the enclosed

request for reconsideration of PATENT TERM ADJUSTMENT. Patentee requests a change in the PTA based on determination in a manner consistent with the court's decision referred to in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008)."

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on November 25, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until May 11 2009. Petitioner requests that the Office suspend the rules and consider on the merits the request for reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by January 25, 2009, the date two months from the date this patent issued, November 25, 2008. Rather, on May 11, 2009, nearly six months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be

imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)."

Specifically, petitioner states that the basis for this petition is due to a case decided by the United States District Court for the District of Columbia on September 30, 2008, whereby that date is more than two months with respect to the patent issuance date of the above-identified patent.

In Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner argues that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months prior to the issuance of their patent and because patentee never received notice of the Wyeth decision from the USPTO.

First, the USPTO is not under a requirement to provide petitioner with Notice of the Wyeth decision and further, with or without notice of the District Court's order issued prior to the issuance of the patent, patentee has not provided any argument as to why a request for reconsideration of Patent Term Adjustment wasn't filed within two months of the issuance of the Patent as set forth in the already established procedures of 37 CFR 1.705. The issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months prior to the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency

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[2] 35 U.S.C. 154(b)(4)(A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. – (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **DISMISSED**.

Accordingly, consideration now turns to the request for reconsideration of PATENT TERM ADJUSTMENT.

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the request for reconsideration of PATENT TERM ADJUSTMENT filed May 11, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to eight hundred seventy-six (876) days.

On November 25, 2008, the above-identified application matured into U.S. Patent No. 7,457,736 with a revised patent term adjustment of 654 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on May 11, 2009.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the

requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

The Office acknowledges submission of the $400.00 fee for a petition under 37 CFR 1.183 to suspend the rules. Per the authorization contained in the petition under 37 CFR 1.183, the fee set forth in 37 CFR 1.18(e), in the amount of $200.00, has been charged to deposit account no. 50-0869 for the request for reconsideration of PATENT TERM ADJUSTMENT, filed May 11, 2009.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartera Donnell for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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OFFICE OF PETITIONS

BAKER HUGHES INCORPORATED
3900 ESSEX LANE
HOUSTON, TX 77027

In re Application of :
James C. Doane, et al. :
Application No. 10/301,229 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. D5407-192 :

This is a decision on the petition filed October 14, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to respond in a timely manner to a Notice of Drawing Inconsistency With Specification mailed July 13, 2005, which set a ONE MONTH or THIRTY (30) DAY period to respond. A Notice of Abandonment was mailed on October 7, 2005. In response, on October 14, 2005, the present petition was filed.

The application is being forwarded to the Office of Publications for consideration of the response filed October 14, 2005.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone 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 (703) 308-6789.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GARY R. MAZE
DUANE MORRIS LLP
3200 SOUTHWEST FREEWAY, SUITE 3150
HOUSTON, TX 77027

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AUG 3 1 2007

OFFICE OF PETITIONS

Moser IP Law Group
1040 Broad Street, 2nd Floor
Shrewsbury, NJ 07702

In re Application of
Nallan et al.
Application No. 10/301,239
Patent No. 7,217,665
Filed: November 20, 2002

: DECISION GRANTING PETITION

This decision is in response to Applicants "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)' timely[1] filed on June 14, 2007 requesting that the Office adjust the PTA determination at the time of the issuance of the patent from a determination of 42 days to a determination of 130 days.

Applicants' request to correct PTA is **GRANTED.** The Office will *sua sponte* issue a certificate of correction correcting the PTA reflected on the front of the patent from a determination of forty two days to an amount of one hundred and thirty days. The Office will adjust the PTA determination reflected in PAIR to reflect this decision.

Applicants assert that the Office erred in the reduction of PTA in an amount ~~of~~ eighty-eight(88) days for the submission of an IDS after the mailing of the notice of allowance . Applicants assert that there were no IDS filed in the application after the notice of allowance date of August 3, 2006. Accordingly, applicants allege that the correct amount of reduction ofPTA at the time of the issuance of the notice of allowance is 120 days not 208 days as shown in the PTA determination.

Applicants arguments are persuasive. Applicants are correct in that the applicants did not submit drawings in this application. Accordingly, the applicants should not have been assessed a a total amount of reduction for the 312 amendment and IDS of 208 days. Since no IDS was filed the proper amount of reduction is limited to 120 days. Accordingly the correct amount of PTA is 130 days (99 +32 +119 - 120+ 130). Office delay included 119 days under 37 CFR 1.702(a)(1); 32 days pursuant to 37 CFR 1.702(a)(2), and 99 days pursuant to 37 CFR 1.702(a)(4). Reductions are limited to 120 days under 37 CFR 1.704(c)(10).

After the mailing of this decision, the application will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

The Office has assessed the $200.00 fee pursuant to 37 CFR 1.18(e) to deposit account 19-0365. No additional fees are necessary for the filing of the petition.

---

[1]Patent issued on May 15,2007.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery Fries
Senior Legal Advisor,
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: draft certificate of correction
Adjusted Pair calculation

Day : Thursday
Date: 8/30/2007

PALM INTRANET

Time: 15:21:35

PTA Calculations for Application: 10/301239			
Application Filing Date:	11/20/2002	PTO Delay (PTO):	250
Issue Date of Patent:	05/15/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	208
Post-Issue Petitions:	0	Total PTA (days):	130
PTO Delay Adjustment:	88		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	08/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	88		
72	05/15/2007	PATENT ISSUE DATE USED IN PTA CALCULATION	99		62
71	02/20/2007	EXPORT TO FINAL DATA CAPTURE			
70	02/19/2007	DISPATCH TO FDC			
69	11/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	01/05/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
67	01/04/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
66	11/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		120	68
65	08/31/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		88	68
64	11/28/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
62	10/05/2006	ISSUE FEE PAYMENT VERIFIED			
61	10/02/2006	FINISHED INITIAL DATA CAPTURE			
60	08/07/2006	EXPORT TO INITIAL DATA CAPTURE			
59	08/03/2006	MAIL NOTICE OF ALLOWANCE			
58	08/03/2006	MAIL FORMAL DRAWINGS REQUIRED	32		50
57	08/03/2006	MAIL EXAMINER'S AMENDMENT			
56	05/12/2006	ISSUE REVISION COMPLETED			
55	05/12/2006	FORMAL DRAWINGS REQUIRED			
54	05/12/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	05/12/2006	EXAMINER'S AMENDMENT COMMUNICATION			
52	05/11/2006	NOTICE OF ALLOWABILITY			

51	03/07/2006	DATE FORWARDED TO EXAMINER			
50	03/02/2006	RESPONSE AFTER NON-FINAL ACTION			
49	12/14/2005	MAIL NON-FINAL REJECTION			
48	12/12/2005	NON-FINAL REJECTION			
47	10/07/2005	DATE FORWARDED TO EXAMINER			
46	09/28/2005	RESPONSE AFTER NON-FINAL ACTION			
45	09/29/2005	CORRESPONDENCE ADDRESS CHANGE			
44	09/27/2005	CORRESPONDENCE ADDRESS CHANGE			
43	07/07/2005	WORKFLOW - QUERY REQUEST - FINISH			
42	07/07/2005	MAIL NON-FINAL REJECTION			
41	06/22/2005	NON-FINAL REJECTION			
40	06/21/2005	DATE FORWARDED TO EXAMINER			
39	04/21/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
38	04/21/2005	REFERENCE CAPTURE ON IDS			
37	04/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	06/21/2005	DATE FORWARDED TO EXAMINER			
35	04/21/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
34	06/21/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
33	06/06/2005	WORKFLOW - QUERY REQUEST - BEGIN			
32	04/25/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
31	03/30/2005	EXPORT TO INITIAL DATA CAPTURE			
30	03/23/2005	MAIL NOTICE OF ALLOWANCE			
29	03/23/2005	MAIL FORMAL DRAWINGS REQUIRED			
28	03/16/2005	ISSUE REVISION COMPLETED			
27	03/16/2005	FORMAL DRAWINGS REQUIRED			
26	03/16/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	03/14/2005	NOTICE OF ALLOWABILITY			
24	03/10/2005	DATE FORWARDED TO EXAMINER			
23	03/02/2005	AMENDMENT AFTER FINAL REJECTION			
22	01/25/2005	MAIL FINAL REJECTION (PTOL - 326)			
21	01/24/2005	FINAL REJECTION			
20	11/17/2004	DATE FORWARDED TO EXAMINER			
19	10/29/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
18	10/15/2004	MAIL RESTRICTION REQUIREMENT			

17	10/14/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
16	08/18/2004	DATE FORWARDED TO EXAMINER			
15	08/12/2004	RESPONSE AFTER NON-FINAL ACTION			
14	08/12/2004	WORKFLOW INCOMING AMENDMENT IFW			
13	07/06/2004	CORRESPONDENCE ADDRESS CHANGE			
12	05/18/2004	MAIL NON-FINAL REJECTION	119		-1
11	05/17/2004	NON-FINAL REJECTION			
10	12/23/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	08/15/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	05/02/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	02/13/2003	APPLICATION DISPATCHED FROM OIPE			
5	02/13/2003	APPLICATION IS NOW COMPLETE			
4	02/10/2003	CLEARED BY L&R (LARS)			
3	01/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	11/26/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/20/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,217,665
DATED	:	May 15, 2007
INVENTOR(S)	:	Nallan 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 (42) days

Delete the phrase "by 42 days" and insert – by 120 days--

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SIEMENS CORPORATION
ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Karl Pichler :
Application No. 10/301,241 : DECISION GRANTING PETITION
Filed: November 21, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2002P019117US :

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 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 July 13, 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 2879.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SIEMENS CORPORATION
ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Karl Pichler :
Application No. 10/301,241 : DECISION GRANTING PETITION
Filed: November 21, 2002 : UNDER 37 CFR 1.137(b)
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This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2005, to revive the above-identified application.

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Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2879.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

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OFFICE OF PETITIONS

In re Application of :
Blake et al. :
Application No. 10/301,289 :
Filed: November 21, 2002 :
Attorney Docket No. :
0508015-0031 : ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed on September 22, 2003, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed January 3, 2003. The Notice required a properly signed oath or declaration; a late filing fee or oath or declaration surcharge, and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice set a period for reply of two (2) 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 on March 4, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

In response to the Notice, Petitioner files the instant petition, executed Declaration; late filing fee oath or declaration surcharge; substitute drawings, and Assignment.

A copy of the Assignment has been forwarded to the Assignment Branch.

The application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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7 TIMES SQUARE
NEW YORK, NY 10036-7311

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AUG 15 2005

OFFICE OF PETITIONS

In re Application of	:	
McMahon et al.	:	
Application No. 10/301,308	:	DECISION
Filed: November 21, 2002	:	ON PETITION
Atty Docket No. 769-236 Div.7	:	
	:	

This is a decision on the "PETITION UNDER RULE 78(s)(3) TO ACCEPT UNINTENTIONALLY DELAYED PRIORITY CLAIM" filed July 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to prior-filed nonprovisional Application no. 09/631,179.

The petition is **granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on November 21, 2002, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional application

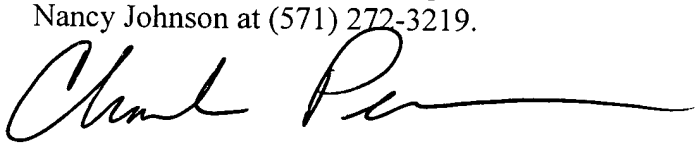
has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). This amendment was filed with this petition on July 29, 2004. The petition includes payment of the surcharge under § 1.17(t). Petitioner states that the entire delay between the date when the claim was due under 37 C.F.R. 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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 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.

This application is being forwarded to Technology Center Art Unit 3721 for consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional application.

Telephone inquiries concerning this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.



Charles A. Pearson
Director
Office of Petitions

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Kenneth Lee et al.
Application No. 10/301,311
Filed: November 21, 2002
Attorney Docket No. DBZ/450P2

This is a decision on the petition filed April 11, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned April 5, 2005 for failure to timely pay the issue fee on or before April 4, 2005. The instant petition and decision on petition precede the mailing of the Notice of Abandonment.

The issue fee($1400), publication fee ($300) and petition fee ($1500), in accordance with 37 CFR 1.18, has been charged to deposit account no. 23-3000 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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 10, 2005

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction on Patent No.: 6,925,771

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:

DAVID DUNN
~~SUPERVISORY PATENT EXAMINER~~
SPE

3636
Art Unit

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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OFFICE OF PETITIONS

In re Application of	:	
Takashi Hamano, et al.	:	
Application No. 10/301,316	:	DECISION GRANTING PETITION
Filed: November 21, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. F-7625	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 29, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 12, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
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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In re Patent No. 6825054
Issue Date: November 30,2004
Application No. 10301341
Filed: November 21,2002
Attorney Docket No. 10PA0400

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 19,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 19,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,825,054	2004-11-30	10301341	2002-11-21	10PA0400

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert R. Waters/	Date (YYYY-MM-DD)	2009-01-19
Name	Robert R. Waters	Registration Number	43241

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Paper No. 10

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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SEP 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Seiichi Satoh et al :
Application No. 10/301,351 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 52433/713 :

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 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.

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 $950 extension of time submitted with the petition on August 16, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 3673 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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745 FIFTH AVENUE - 10TH FL.
NEW YORK NY 10151

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OFFICE OF PETITIONS

In re Application of
David S. Rougvie et al
Application No. 10/301,354
Filed: November 21, 2002
Attorney Docket No. 930038-2032

ON PETITION

This is a decision on the petition, filed November 1, 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 filing a continuation application.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The application is being referred to the 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : November 4, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/301,354

Applicant(s) :David S. Rougvie et al
Application No. :10/301,354
Filed :November 21, 2002

The above-identified application has been assigned Patent No. 6,821,393 and an issue date of November 23, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicants.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 23, 2004:

"All reference to Patent No. 6,821,393 to David S. Rougvie et al of Wisconsin for FORMING FABRIC WITH TWINNED TOP WEFTS AND AN EXTRA LAYER OF MIDDLE WEFTS appearing in the Official Gazette of November 23, 2004 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

21 SEP 1999

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PATENT DEPT.

IRVING NEWMAN
CENTEON
1020 FIRST AVENUE
KING OF PRUSSIA , PA 19406-1310

In re Application of
GOODEY et al.
Application No.: 08/952,558
PCT No.: PCT/GB96/00449
Int. Filing Date: 29 February 1996
Priority Date: 25 May 1995
Attorney's Docket No.: CE 0111 D US
For: PROCESS OF HIGH PURITY ALBUMIN PRODUCTION

DECISION ON

PETITION

UNDER 37 CFR 1.42 and 1.47(a)

COMPUTER ENTERED

This is a decision in response to the "Petition For Filing by Other Than All the Inventors under 37 CFR 1.47(a)" filed on 24 February 1999, which requests the acceptance of the application without the signature of the deceased joint inventor, Mr. Andrew Goodey.

A combined declaration/power of attorney identifying the named inventors of the international application and signed by the joint inventors on behalf of themselves and the nonsigning inventor accompanies the petition and is in compliance with 37 CFR 1.42.

In further compliance with 37 CFR 1.42, applicants provide a statement by D.J. Ballance, which accompanied the renewed petition. Mr. Ballance's declaration states that he contacted Mr. Goodey's widow and legal representative, Linda Goodey in February 1998, requesting that she sign the declaration as the legal representative of her deceased husband. Mr. Ballance then mailed a copy of the application (including specification, claims and drawings) and declaration to Mrs. Goodey's last known address. Thereafter, Mrs. Goodey told Mr. Ballance by telephone that she would not sign the Declaration on behalf of her husband, Andrew Goodey. Mr. Ballance's statement, filed with the renewed petition together with the other evidence of record, is sufficient to indicate that Mrs. Goodey, by her oral statement and conduct, has refused to execute this application on behalf of her deceased husband, Andrew Goodey.

The application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.47(a).

CONCLUSION

The renewed petition under 37 CFR 1.42 and 1.47(a) is GRANTED.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 24 February 1999 and to mail a filing receipt. The application has an international filing date of 29 February 1996 under 35 U.S.C. 363, and a date of 24 February 1999 under 35 U.S.C. 371(c) and 102(e).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the legal representative of the non-signing inventor at her last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

Applicant is reminded that proof of authority of the legal representative in compliance with 37 CFR 1.44 must be submitted before the grant of a patent. See MPEP 409.01(b) and 409.03(c).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Richard B. Lazarus
Supervisory PCT Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Petitions Attorney
PCT Legal Office

CMK/RBL:cmk

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

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OFFICE OF PETITIONS

Lisa K. Jorgenson
STMICROELECTRONICS, INC.
1310 Electronics Drive
Carrollton TX 75006

In re Application of	:	
Osvaldo Colavin et al.	:	
Application No. 10/301,372	:	DECISION ON PETITION
Filed: November 21, 2002	:	PURSUANT TO
Attorney Docket No. 02-LJ-033	:	37 C.F.R. § 1.181(A)
(STMI01-02033)	:	
Title: CLUSTERED VLIW	:	
COPROCESSOR WITH RUNTIME	:	
RECONFIGURABLE INTER-CLUSTER	:	
BUS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on February 11, 2009.

BACKGROUND

The above-identified application became abandoned due to the September 30, 2008 decision of the Board for Patent Appeals and Interferences that upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on December 1, 2008 the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on December 11, 2008.

1 See MPEP § 1216.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

> (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 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.

ANALYSIS

With this petition, Petitioner has alleged that a response was timely filed on December 1, 2008 (Petitioner has indicated that November 30, 2008 fell on a Sunday). Petitioner has further included a postcard receipt, which evinces that a Request for Continued Examination (RCE), an amendment, and a check in the amount of $810 were received in the Office on December 8, 2008.

The electronic file has been reviewed, and a copy of this response has been located in the same. It is clear that this submission was received on December 8, 2008. The response has been reviewed, and it is noted that it contains a certificate of mailing dated December 1, 2008.

Moreover, Office records reflect the receipt of the fee that is associated with the filing of a RCE on December 8, 2008.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

CONCLUSION

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.**

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment received on December 8, 2008 - can be processed.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Munck Carter, LLP
Docket Clerk
P.O. Box 802432
Dallas, Texas 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Sugar et al. :
Application No. 10/301,382 : DECISION ON PETITION
Filed: 20 November, 2002 :
For: OMNI-DIRECTIONAL TREADMILL :

This is a decision on the petition filed on 2 February, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 9 March, 2006, for failure to timely respond to the non-final Office action mailed on 8 December, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 29 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 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 address listed on the petition filed on 2 February, 2007, is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being forwarded to Technology Center 3764 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

cc: CONNOLLY BOVE LODGE & HUTZ LLP
1007 NORTH ORANGE STREET
PO BOX 2207
WILMINGTON DE 19899

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

F. CHAU & ASSOCIATES, LLP
Suite 501
1900 Hempstead Turnpike
East Meadow, NY 11554

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Kaufman et al. :
Application No. 10/301,399 : DECISION DISMISSING
Filed: November 21, 2002 : PETITION
Attorney Docket No. 8009-22 :

This is a decision on the petition filed February 28, 2003, requesting entry of drawings submitted on February 28, 2003.

The petition is **dismissed**.

On November 21, 2002, the application was filed.

On December 31, 2002, the Office of Initial Patent Examination mailed a Notice stating that Figures 7e, 7f, 8b, 8c, 9a and 9b were missing.

Petitioner has supplied a copy of drawings and requests the drawings be entered based upon an incorporation by reference of a prior application. MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

If petitioner desires for the examiner to consider drawings which were not submitted as part of the original disclosure, then petitioner may submit those drawings as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a). The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The pages submitted with the petition will not be entered. Should petitioner wish for the pages to be entered, a formal amendment must be filed.

The original application papers will include only those application papers present on the date of deposit.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 21, 2002, using only the application papers filed on November 21, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WILHELM LAW SERVICE, S.C.
100 W LAWRENCE STREET, 3RD FLOOR
APPLETON, WI 54911

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FEB 20 2007

OFFICE OF PETITIONS

In re Application of :
LOCK, et al. :
Application No. 10/301,405 : DECISION ON PETITION
Filed: November 21, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. 29668 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 19, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from inventor Howard C. Lock, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2623 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
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DALLAS TX 75265

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of
Mary A. Metelko :
Application No. 10/301,417 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket Number: TI-32798 :

This is a decision on the petition under 37 CFR 1.182 filed May 26, 2006, to Change the Name of the Inventor Due to Divorce.

The petition is **GRANTED**.

Petitioner has requested that the inventor formerly known as Mary A. Du Val be listed as Mary A. Metelko. The petition fee, an ADS identifying the inventor as Mary A. Metelko and of how the change was effected, divorce, has been submitted in compliance with 37 CFR 1.182.

In view of the instant request, the following inventor name data will be changed.

Inventor 1) Mary A. Metelko

This matter is being referred to Technology Center 2629 for further processing.

Telephone inquiries concerning this matter should be directed to the undesigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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MAY 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Qun Li, et al. :
Application No. 10/301,427 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 6498.US.D1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 Restriction Requirement mailed July 29, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on August 29, 2003.

The request for continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. Accordingly, the RCE submitted with the present petition is improper and will not be processed. Since the RCE was accompanied by a reply to a restriction and/or election requirement, the reply will be entered and considered under 37 CFR 1.111. In view of the above, the $770.00 fee submitted for the RCE is unnecessary and will be refunded to petitioner's Deposit Account No. 01-0025 as authorized.

The application file is being forwarded to Technology Center 1600, Art Unit 1626 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE: M. Anderson

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/13/07

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/301,432 Patent No.: 7079864

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: The requested changes/corrections have been reviewed by the Examiner and approved to be entered. 05/04/2007.

MATTHEW ANDERSON
SUPERVISORY PATENT EXAMINER

SPE 2618 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 4

J. RODMAN STEELE, JR
AKERMAN SENTERFITT
222 LAKEVIEW AVENUE, SUITE 400
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Mamoru Saito :
Application No. 10/301,456 : NOTICE
Filed: November 21, 2002 :
Attorney Docket No. 1625-155 :

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAR 21 2006

OFFICE OF PETITIONS

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

In re Application of :
David Y.H. Pui et al :
Application No. 10/301,473 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 110.02030101 :

This is a decision on the petition, filed March 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 17, 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 1762 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : March 21, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

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MAR 21 2006

OFFICE OF PETITIONS

Applicant(s) :David Y.H. Pui
Application No. :10/301,473
Filed :November 21, 2002

The above-identified application has been assigned Patent No. 7,018,671 and an issue date of March 28, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 28, 2006:

"All reference to Patent No. 7,018,671 to David Y.H. Pui of Minnesota for COATING MEDICAL DEVICES appearing in the Official Gazette of March 28, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

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AUG 0 9 2006
OFFICE OF PETITIONS

In re Application of :
March I. Greene, et al. :
Application No. 10/301,499 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No.: 4040/1K399US1 :

This is a decision on the petition, filed August 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 5, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1654 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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OFFICE OF PETITIONS

STATTLER JOHANSEN & ADELI
P O BOX 51860
PALO ALTO, CA 94303

In re Application of
Sarah Brody, et al.
Application No. 10/301,500
Filed: November 20, 2002
Attorney Docket No. APLE.P0034

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 17, 2004, 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**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 19, 2003. However, petitioner states that the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 3, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2672 for examination in due course.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Craig J. Arnold; Elie H.
Gendloff; Alan D. Miller
Amster, Rothstein & Ebenstein
90 Park Avenue
New York, NY 10016

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MAR 23 2006

OFFICE OF PETITIONS

In re Patent of :
Schramm et al. :
Patent No. 6,987,091 :
Issued: January 17, 2006 : ON PETITION
For: SIR2 PRODUCTS AND ACTIVITIES :

This is a decision on the Petition, filed January 30, 2006, under 37 CFR 1.183, for waiver of 37 CFR 3.81(a), to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The processing fee for a request under 37 CFR 3.81 is $130.00. The difference between the fee for the petition under 37 CFR 1.183 ($400.00), and the processing fee ($130.00), a total of $270.00, has been refunded to Petitioner's deposit account.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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Paper No. 6

JEFFREY C. HOOD
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL PC
P.O. BOX 398
AUSTIN TX 78767-0398

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OFFICE OF PETITIONS

In re Application of
Hussain, et al.
Application No. 10/301,518
Filed: November 21, 2002
Attorney Docket No. 5602-12100
For: DISTRIBUTED RESOURCE MANAGER

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed April 9, 2003 (certificate of mailing date April 3, 2003), requesting that the above-identified application be accorded a filing date of November 21, 2002, rather than the presently accorded filing date of October 21, 2002.

Petitioners contend that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on November 21, 2002. In support of this contention, petitioner has supplied with the present petition a copy of Express Mail Receipt No. EV204469320US bearing a "date-in" of November 21, 2002 and a postal service date stamp of November 21, 2002. The original Nonprovisional Patent Application Transmittal found in the application file has transcribed on its front page the following Express Mail Receipt Number: EV204469320US.

In view of the above, the petition is **granted**.

The $130.00 petition fee charged to petitioner's deposit account no. 50-1505 will be refunded.

This application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **November 21, 2002.** Thereafter, this application file will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

4/15/09

In re Application of:
SULLIVAN, PATRICK K. et al
Serial No.: 10/301,524
Filed: Nov. 20, 2002
Docket: HOANA-65145
Title: DEVICES AND METHODS FOR PASSIVE PATIENT MONITORING

DECISION ON PETITION TO WITHDRAW HOLDING OF FINALITY

This is a decision on the petition filed on March 20, 2009 to withdraw the finality of the Office Action of February 6, 2009. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition.

The petition is **DISMISSED**.

In the petition, petitioner requests withdrawal of the finality of the Office action dated February 6, 2009. Petitioner claims that the finality of the Office action is premature because the examiner should have anticipated such amendment to claim 74 of July 9, 2008. Therefore, the amendment of July 9, 2008 did not necessitate the new grounds of rejection.

The record shows that:

1. On January 9, 2008 the examiner mailed a non-final Office action. In the non-final Office action, claim 74 was rejected under 103(a) as being unpatentable over Brydon (US 6,547,743 B2) (Class 600/Subclass 534) in view of Malone (US 6,014,436) (Class368/Subclass10).
2. In response to the Office action mailed January 9, 2008, the applicant filed an amendment on July 9, 2008. At least, claim 74 was amended.
3. On February 6, 2009 the examiner issued a final Office action. In the final Office action, claim 74 was rejected under 103(a) as being unpatentable over Weiner et al. (US 6,988,989 B2) (Class 600/Subclass 300) in view of Newham (US 6,297,738 B1) (Class 340/subclass 573.1).
4. The present petition, filed on March 20, 2009 requests withdrawal of the finality of the Office action mailed on February 6, 2009.

Discussion and Analysis

The relevant portion of MPEP § 706.07(a): Final Rejection, When Proper on Second Action, states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner requests withdrawal of finality of the Office action mailed February 6, 2009. Petitioner asserts that this Office action of February 6, 2009 should not be made final because the amended limitation in the claim 74 is clearly expected to be made. The examiner had treated claim 74 in the non-final Office Action of January 9, 2008, as if the change already had been made, the examiner cannot now maintain that this change necessitated a new ground of rejection in the current Office Action. The finality of the Office Action of February 6, 2009 is improper and should be withdrawn.

This line of arguments is not convincing. The issue in the current petition is whether amended independent claim 74 of July 9, 2008 changed the scope of previous independent claim 74 of June 15, 2007. If so, the new ground of rejection in the final Office action was necessitated by applicant's amendment of July 9, 2008. In order to determine whether or not the previous independent claim 74 of June 15, 2007 and the amended independent claim 74 of July 9, 2008 are identical in scope, a comparison of the claims must be made.

Claim 74 of June 15, 2007 previously recited in part "wherein each surface must be connected with the sheath via the sheath-surface connector in order to monitor the at least one mechanical signal of the patient". Amended claim 74 of July 9, 2008 currently recites in part "wherein the surface must be connected with the sheath via the sheath-surface connector in order to monitor the at least one mechanical signal of the patient". The comparison shows the amended claim 74 recites the invention with a broader scope than the previous claim 74 of June 15, 2007, which necessitated the new grounds of rejection and a new search including class 600 subclass 300 and class 128 subclass 920. Prior to the amendment of July 9, 2008, each of the plurality of sensor devices comprised a surface having multiple sensors disposed on it and a processor connected to it with a connector, and a sheath connected to each surface (including each surface of the plurality of sensor devices) via a sheath-surface connector; whereas after the amendment of July 9, 2008, each of the plurality of sensors devices comprises a surface having multiple sensors disposed on it and a processor connected to it with a connector, and a sheath connected to the surface (including only a single surface of the plurality of sensor devices) via a sheath-surface connector. In other words, previously, the sheath-surface connector connected each of the plurality of surfaces; whereas currently, the sheath-surface connector connects a single surface. This clearly shows the amended claim 74 of July 9, 2008 has a broader scope than the previous claim 74. The applicant simply has broadened the scope of claim 74 in the amendment of July 9, 2008.

In view of the newly amended limitation in claim 74, the examiner needed to search Class 600/300 and Class 128/920 and found U.S. patents to Weiner et al (US Pat. 6,988,989 and Newham (US 6,297,738) for the rejection of amended claim 74 as stated in the final Office action of February 6, 2009. The amended limitation to claim 74 in the amendment filed on July 9, 2008 necessitated the new grounds of rejection in accordance with M.P.E.P. 706.07(a) mailed on February 6, 2009.

Petitioner argues that the amendment of July 9, 2008 is anticipated by the examiner. Therefore, the examiner cannot now maintain that this change necessitated a new ground of rejection in the final Office Action. This line of arguments is not persuasive. As analyzed above, amended claim 74 contains a broader scope than the previous claim74. In the final Office action of February 6, 2009, the newly applied Weiner et al and Newham patents are only applicable to the amended claim 74 under 35 U.S.C. 103(a). In the non-final Office action of January 9, 2008, the Brydon and Malone patents were applicable toward previous claim 74. This is a clear evidence of the necessitation of new references in meeting the amended claim limitation.

The arguments regarding anticipation of the amendment also fail because they are too speculative. In view of the amended limitation in claim 74, there is no reasonable expectation that the examiner would anticipate the applicant to broaden claim 74. As also stated in MPEP § 706.07(a):

> **>However, note that an examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph)<.

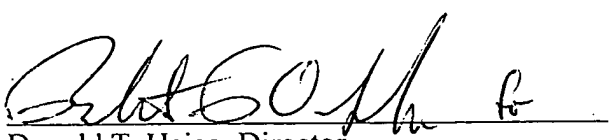
A review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 706.07(a). The finality of the Office action is appropriate.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the finality of the Office action dated February 6, 2009 is proper.

The application is being forwarded to Art Unit 3736 awaiting applicant's response to the final rejection of February 6, 2009. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.



Donald T. Hajec, Director
Technology Center 3700

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HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 05/19/2010

Applicant	: Patrick K. Sullivan	: DECISION ON REQUEST FOR
Patent Number	: 7666151	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/301,524	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **948** 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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FEB -7 2005

In re Application of	:	
Amy J. Price et al.	:	
Serial No. 10/301,525	:	DECISION ON PETITION
Filed: November 20, 2002	:	TO WITHDRAW AS ATTORNEY
For: COMMUNICATION ASSIST DEVICE	:	

By papers filed on November 8, 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:

Ms. Amy J. Price
7879 Sable Court
Dublin, OH 43016-9798

E.R. Kazenske, Director
Technology Center 3700

Sean M. Casey Co., LPA
P.O. Box 710
New Albany, OH 43054-0710

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Paper No. 6

Jeffrey C. Hood
Meyertons, Hood, Kivlin, Kowert & Goetzel PC
P.O. Box 398
Austin, TX 78767

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APR 1 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Husain et al.
Application No. 10/301,536
Filed: November 21, 2002
Attorney Docket No. 5602-10201

This is a decision on the petition filed April 9, 2003, to accord the above-identified application a filing date of November 21, 2002, instead of October 21, 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 21, 2002.

A petition under 37 CFR 1.10 does not require a petition fee. Therefore, the $130.00 submitted with the petition is unnecessary and will be credited to petitioner's deposit account.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 21, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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BURNS & LEVINSON LLP
125 SUMMER STREET
BOSTON, MA 02110

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Allen Flusberg et al :
Application No. 10/301,557 : DECISION ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. :
S00622.70071.US-12587-128

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 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 October 6, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on January 7, 2005. A Notice of Abandonment was mailed on April 14, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of October 6, 2004 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The above-identified application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. *See* Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 2821 for appropriate action in the normal course of business on the reply received September 22, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 5

JOHN C. HOLMAN
JACOBSON HOLMAN PLLC
400 SEVENTH STREET, N.W.
WASHINGTON, DC 20004

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of
Michael Dougan et al
Application No. 10/301,599
Filed: November 22, 2002
Attorney Docket No. P67343US1

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 3732.

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

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA VA 22314

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OCT 05 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Norio Ohnishi et al :
Application No. 10/301,614 :
Filed: November 22, 2002 :
Attorney Docket No. 230917USOCONT :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 28, 2005, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on September 2, 2005, with the issue fee being due on or before December 2, 2005. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of September 2, 2005, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1625 for appropriate processing of the RCE filed September 28, 2005 and consideration of the IDS submitted concurrently therewith.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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KANESAKA BERNER & PARTNERS
1700 DIAGONAL ROAD, SUITE 310
ALEXANDRIA, VA 22314

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FEB 1 2 2007

OFFICE OF PETITIONS

In re Application of :
Yoshihide Suzuki et al :
Application No. 10/301,653 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. K-2093 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 5, 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 June 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) were obtained. Accordingly, the above-identified application became abandoned on September 16, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1765 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JUL 29 2004

Paper No. 6

In re Application of
Mitsuo Matsuoka
Application No. 10/301,688
Filed: November 12, 2002
Attorney Docket No. 1222-0163P

: DECISION ON PETITION

This is a decision on the petition filed on May 5, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated September 11, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that the application is not abandoned because a reply to the Office letter in question was in fact timely filed. Petitioner has supported this allegation by submitting a copy of the reply and a copy of a post card filing receipt for the reply showing that the reply, and a petition for a three month extension of time together with the fee for the extension, were in fact received in the Office on March 10, 2004. As this date is within the period set by the Office letter in question for filing a reply thereto, as extended, it is evident that this application is not abandoned. Office financial records confirm receipt of the $475.00 fee for the extension of time.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner who will process the reply filed on March 10, 2004, and thereafter the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Birch Stewart Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

LEONG C. LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

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APR 17 2006

OFFICE OF PETITIONS

In re Application of :
Hong Yao Chen :
Application No. 10/301,690 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. FP9149 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 3, 2005, to revive the above-identified application.

This application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed November 19, 2003. A Notice of Abandonment was mailed on May 27, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application file is being referred to Technology Center Art Unit 2151, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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

LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of :
Jui-Wen Chen :
Application No. 10/301,696 : DECISION ON PETITION
Filed: 22 November, 2002 :
Atty Docket No. FP9108 :

This is a decision on the petition filed on 26 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 13 January, 2004, for failure to timely submit a timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) filed on 12 December, 2003, 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 13 July, 2004.

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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)).

Petitioners state, *inter alia*, 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."

The record does not necessitate a finding that the delay between 13 January, 2004, and 26 January, 2006, was not unintentional.

Rather, the Patent and Trademark Office is relying on petitioners' duty of candor and good faith and accepting the statement that the entire delay in filing the required reply and until the filing of the petition was unintentional.[2]

The present petition is accompanied by an amendment as the required reply.

This application is being referred to Technology Center Art Unit 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

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[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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June 4, 2007

Benjamin J. Hauptman
LOWE HAUPTMAN & BERNER, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

Patent No.: 6747210 B2
Application No.: 10/301725
Inventor(s): **Cheng-Che Chen**
Issued: **June 8, 2004**
Title: **METHOD OF CABLE ASSEMBLY WITH ELECTROMAGNETIC INTERFERENCE PROTECTION AND STRUCTURE THEREOF**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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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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LOWE HAUPTMAN GOPSTEIN GILMAN & BERNER, LLP
SUITE 310
1700 DIAGONAL ROAD
ALEXANDRIA VA 22314

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Patent No. 6,747,210 :
Issued: June 8, 2004 :
Application No. 10/301,725 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket Number: 4006-210 :

This is a decision on the petition filed July 24, 2007, to correct the assignee's name on the front of the Patent. The petition is being treated under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the failure to include the correct name of the assignee on the Fee(s) Transmittal form PTOL-85(b) filed April 1, 2004 was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

A request for a certificate of correction was filed May 23, 2007 and was dismissed in a decision mailed June 4, 2007 since the request was not accompanied by a petition under 37 CFR 3.81.

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[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that QUANTA COMPUTER, INC. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100.00 have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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TECHNOLOGY CENTER 3600

MATTINGLY, STANGER & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

Paper No. 4

In re application of : **DECISION ON PETITIO**
Harold O. Leavitt : **TO MAKE SPECIAL**
Application No.10/301755 : **(APPLICANT'S AGE)**
Filed: November 22, 2002 :
For: METHOD AND APPARATUS FOR A CRYPTOGRAPHICALLY ASSISTED COMMERCIAL SYSTEM DESIGNED TO FACILITATE SELLER DRIVEN SALES OFFERS

This is a decision on the petition submitted on December 16, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section IV: Applicant's Age. The delay in deciding this petition is regretted.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted is the applicant's birth certificate showing that applicant is over 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/ekn: 9/17/03

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100 PINE STREET
PO BOX 1166
HARRISBURG, PA 17108-1166

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of
Thomas Joseph Kelly
Application No. 10/301,767
Filed: November 20, 2002
Attorney Docket No. 13DV14211/11847

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed January 28, 2005.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The subject application was filed on November 20, 2002. On March 4, 2004, a non-final Office action was mailed to which applicant filed a response on May 10, 2004. On May 21, 2004, the Office of Initial Patent Examination issued a Notice of Non-Compliant Amendment allowing an extendable period for reply of one-month from its mailing date. The notice indicated that the claims as amended did not provide proper status identifiers for the claims. No response was received within the allowable period and the application became abandoned on June 22, 2004. A Notice of Abandonment was mailed on December 29, 2004. The instant petition was filed on January 28, 2005. Petitioner maintains that the holding of abandonment should be withdrawn because the Notice of Non-Compliant Amendment was not proper and should have been withdrawn. Petitioner states that the Examiner Wyszomierski confirmed this in a telephone conversation.

The undersigned contacted Examiner Wyszomierski to confirm his understanding of the aforementioned events. Examiner Wyszomierski could not recall having a conversation to this effect, but noted that it has been more than two years since these events took place. A review of the application file did not reveal any indication that the Notice of Non-Compliant Amendment had been withdrawn. The petition to withdraw the holding of abandonment cannot be granted absent such an indication or confirmation from Examiner Wyszomierski that the Notice of Non-Compliant Amendment was issued in error. The petition is dismissed accordingly.

It is noted that a petition under 37 CFR 1.137(b) was filed in the alternative to the petition to withdraw the holding of abandonment. The undersigned was reluctant to treat the petition under 37 CFR 1.137(b) because the renewed petition to withdraw the holding of abandonment may be grantable. A decision on the petition under 37 CFR 1.137(b) is held in abeyance until petitioner has the opportunity to speak with

Examiner Wyszomierski. Thereafter, petitioner may file either a renewed petition to withdraw the holding of abandonment or contact the undersigned to request a decision on the petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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HARRISBURG, PA 17108-1166

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OFFICE OF PETITIONS

In re Application of :
Thomas Joseph Kelly :
Application No. 10/301,767 :
Filed: November 20, 2002 :
Attorney Docket No. 13DV14211/11847

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 19, 2007.

The petition is **GRANTED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The subject application was filed on November 20, 2002. On March 4, 2004, a non-final Office action was mailed to which applicant filed a response on May 10, 2004. On May 21, 2004, the Office of Initial Patent Examination issued a Notice of Non-Compliant Amendment allowing an extendable period for reply of one-month from its mailing date. The notice indicated that the claims as amended did not provide proper status identifiers for the claims. No response was received within the allowable period and the application became abandoned on June 22, 2004. A Notice of Abandonment was mailed on December 29, 2004. The instant renewed petition, petitioner maintains that the holding of abandonment should be withdrawn because the Notice of Non-Compliant Amendment was not proper and should have been withdrawn. Petitioner states that the Examiner Wyszomierski confirmed this in a telephone conversation.

The undersigned received a communication from Mr. Roy King, the Supervisory Patent Examiner for Examiner Wyszomierski, confirming that the Notice of Non-Compliant Amendment should have been withdrawn. The holding of abandonment is withdrawn, accordingly.

The application file is being directed to Technology Center 1700, GAU 1742, for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 15 2003

UR
PAPER NO. 19

In re Application of :
Gary Wentworth et al. :
Serial No. 10/301,770 :
Filed: November 21, 2002 :
For: ADHESION PROMOTER FOR CORD-REINFORCED RUBBER AND METAL OR POLYMER SUBSTRATE/RUBBER COMPOSITES :

DECISION
ON
PETITION
UNDER 708.02, VIII

This is in response to the petition filed June 17, 2003, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows that Class 524, Subclasses 306, 314, 315, 318, 322, 540, 541, and 542; Class 525, Subclasses 332.6, 333.7; Class 152, Subclass 209.5; Class 156, Subclass 73.2 and 117; and Class 428, Subclass 364 should have been searched.

Accordingly, the petition is **DENIED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Marshall, Gerstein & Borum LLP.
300 Sears Tower
233 S. Wacker Drive
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
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JUL 28 2004

DCM

In re Application of Gary Wentworth, et al. Serial Number: 10/301,770 Filed: November 21, 2002 For: ADHESION PROMOTOR FOR CORD-REINFORCED RUBBER AND METAL OR POLYMER SUBSTRATE/RUBBER COMPOSITES	:	PETITION UNDER MPEP 708.02 VIII

This is in response to the Petition to Make Special filed December 22, 2003, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

JAMES L. KATZ
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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MAY 23 2003

OFFICE OF PETITIONS

In re Application of
Kelly, et al.
Application No. 10/301,775
Filed: November 21, 2002
Attorney Docket No. 4672/231

DECISION GRANTING
PETITION

This is a decision on the papers styled, "Petition For Correction of Filing Date, filed April 21, 2003, which has been treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of November 20, 2002, rather than the presently accorded filing date of November 21, 2002.

Petitioners allege that the application was deposited in Express Mail service on November 20, 2002. In support, the petition is accompanied by a copy of Express Mail Receipt No. EL756222696US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of November 20, 2002.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of November 20, 2002.

Since the instant petition has been granted, no petition fee is required.

The application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of November 20, 2002 and issuance of a corrected filing receipt. Thereafter, the file will be returned to Technology Center 3600 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE / CME
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,624,062	:	DECISION ON REQUEST
Kelly, et al.	:	FOR
Issue Date: November 24, 2009	:	RECONSIDERATION OF
Application No. 10/301,775	:	PATENT TERM ADJUSTMENT
Filed: November 20, 2002	:	and
Atty Docket No.4672/231	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 11, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred and three (1,603) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred and two (1,602) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 21, 2005, and ends on September 3, 2008, the day before the RCE was filed, and is 1,018 (not 1,019) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1,602 days, not 1,603 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand six hundred and two (1,602)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,624,062 B1

DATED : Nov. 24, 2009

INVENTOR(S) : Kelly, 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 (1272) days

Delete the phrase "by 1272 days" and insert – by 1602 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 03-03

Paper No. 4

WHITHAM, CURTIS & CHRISTOFFERSON, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

COPY MAILED

MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Dau et al.	:	
Application No. 10/301,789	:	DECISION DISMISSING
Filed: 6 March, 2003	:	PETITION
Attorney Docket No. RTEC-002/00US	:	

This is a decision on the petition styled under 37 CFR 1.181 filed on 6 March, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the above identified application be accorded a filing date of 22 November, 2002.

The petition is **dismissed**.

The application was deposited on 22 November, 2002. On 13 January, 2003, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date that the drawings were received in accordance with 35 U.S.C. § 113. A two (2)-month period for reply was set. The Notice also stated that the application filed to comply with 37 CFR 1.821-1.825 in that a computer readable form (CRF) copy of the "Sequence Listing" was required, along with an initial paper or compact disc copy of the Sequence Listing and an amendment directing its entry.

In the petition filed on 6 March, 2003, petitioners argue that 43 sheets of drawings were filed on 22 November, 2002. In support, a copy of petitioners' two (2) postcard receipts were provided. The postcards bear an Office date stamp of 22 November, 2002, and one of the postcards also bears the above identified application number. The postcards identify the application by attorney docket number and invention title. The postcard shows a "0" which has been crossed out for the number of sheets of drawings,

and a "43" written beside the crossed-out "0". The petition is accompanied by 44 sheets of drawings.

At the outset, it is noted that the petition states that "Applicant notes that the number of sheets of drawings had been corrected from zero (0) to forty three (43)." In accepting this petition, the Office is construing petitioners' statement to mean that the number of sheets of drawings listed on the postcard was corrected before the application, including the postcard, was filed with the USPTO. Petitioners **must** inform the Office if this is an incorrect interpretation.

Since the number of sheets of drawings supplied with the present petition is different than the number of sheets of drawings listed on the postcard, either the itemized postcard did not properly itemize the papers filed on 22 November, 2002, or petitioner has not provided a copy of the papers actually filed on 22 November, 2002. In any event, it cannot be determined which of the 44 sheets of drawings submitted on 6 March, 2003, were among the 43 sheets of drawings received in the USPTO on 22 November, 2002. Petitioners are reminded that a postcard receipt will not serve as *prima facie* evidence of the filing of any papers not properly itemized thereon. The petition is therefore **dismissed.**

It is noted that petitioners have filed a statement in accordance with 37 CFR 1.821(e) that the Sequence Listing in the instant application is to be identical to the Sequence Listing in Application No. 09/589,497 in lieu of a new CRF. Additionally, although petitioners state that a both a paper copy and a compact disc copy of the Sequence Listing was filed with the present petition, no compact disc copy of the Sequence Listing can be located among the papers received with the present petition on 6 March, 2003. Furthermore, petitioners have not filed a preliminary amendment directing the entry of the Sequence Listing as required by the Notice mailed on 13 January, 2003.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 6 March, 2003, the date that the drawings were received in the USPTO.

As the petition is due to an error on the part of petitioner rather than the USPTO, the petition fee will not be refunded.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 04-03

Paper No. 8

WHITHAM, CURTIS & CHRISTOFFERSON, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

COPY MAILED

APR 2 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Dau et al.	:	
Application No. 10/301,789	:	DECISION GRANTING
Filed: 22 November, 2002	:	PETITION
Attorney Docket No. RTEC-002/00US	:	

This is a decision on the petition styled under 37 CFR 1.181 filed on 21 April, 2003, which is treated as a renewed petition under 37 CFR 1.53 requesting that the above identified application be accorded a filing date of 22 November, 2002, with 43 sheets of drawings as a part of the original disclosure.

The petition is **GRANTED**.

The application was deposited on 22 November, 2002. On 13 January, 2003, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date that the drawings were received in accordance with 35 U.S.C. § 113. A two (2)-month period for reply was set. The Notice also stated that the application filed to comply with 37 CFR 1.821-1.825 in that a computer readable form (CRF) copy of the "Sequence Listing" was required, along with an initial paper or compact disc copy of the Sequence Listing and an amendment directing its entry. In the petition filed on 6 March, 2003, petitioners argued that 43 sheets of drawings were filed on 22 November, 2002. In support, a copy of petitioners' two (2) postcard receipts were provided. The postcards bear an Office date stamp of 22 November, 2002, and one of the postcards also bears the above identified application number. The postcards identify the application by attorney docket number and invention title. The postcard shows a "0" which has been crossed out for the number of sheets of drawings, and a "43" written beside the crossed-out "0". The petition is

accompanied by 44 sheets of drawings. The petition was dismissed, however, because the number of sheets of drawings supplied with the present petition is different than the number of sheets of drawings listed on the postcard, calling into question whether the itemized postcard did not properly itemize the papers filed on 22 November, 2002, or that petitioner had not provided a copy of the papers actually filed on 22 November, 2002.

On renewed petition, petitioners have supplied a copy of 43 sheets of drawings. Petitioners assert that one (1) sheet of drawings not included in the original application papers filed on 22 November, 2002, was inadvertently included in the drawings supplied with the petition filed on 6 March, 2003. Petitioners further assert that the 43 sheets of drawings filed with the present petition are in fact a copy of the 43 sheets of drawings originally filed on 22 November, 2002, with the other application papers, and which were apparently lost in the USPTO after receipt.

Petitioners again assert that the Sequence Listing in the instant application is to be identical to the Sequence Listing in Application No. 09/589,497 in lieu of a new CRF. Additionally, petitioners now state that no compact disc copy of the Sequence Listing will be filed in the present application, and that since both a paper copy and a compact disc copy are not required, petitioners have deleted the references to a compact disc copy. Additionally, a preliminary amendment directing the entry of the paper copy of the Sequence Listing as required by the Notice mailed on 13 January, 2003, has been filed with the present petition.

A review of the record reveals that no sheets of drawings are located among the application papers deposited on 22 November, 2002. However, the evidence is convincing that the application papers deposited on 22 November, 2002, included 43 sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including 43 sheets of drawings, is entitled to a filing date of 22 November, 2002.

The Notice of Incomplete Nonprovisional Application mailed on 13 January, 2003, was sent in error is hereby vacated.

In view of the above, the petition is granted. The petition fee of $130.00 paid is unnecessary and will be credited to counsel's deposit account, No. 50-2041.

The application will be processed and examined with a filing date of 22 November, 2002, using the 43 sheets of drawings supplied on 21 April, 2003. The 44 sheets of drawings filed on 6 March, 2003, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of 22 November, 2002, using the 43 sheets of drawings supplied with the present petition.

Telephone inquires 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
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BARNES & THORNBURG LLP
750-17TH STREET NW
SUITE 900
WASHINGTON DC 20006-4675

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of
Mika Jalava et al.
Application No. 10/301,858
Filed: November 22, 2002
Attorney Docket No.: **2011792US/A/kop**

ON PETITION

This is a decision on the petition filed October 1, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on June 6, 2007, for failure to timely submit a timely response to the Final Office Action mailed March 5, 2007, which set a three month period for reply. Accordingly, after the filing of the instant petition, a Notice of Abandonment was mailed October 3, 2007.

In response, the Notice of Appeal and the Pre-Appeal Brief Request for Review filed October 1, 2007 are both being referred to Technology Center 2134.

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

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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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Guillaume Sebire	: DECISION ON REQUEST FOR
Patent Number	: 7573844	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/301,862	: OF WYETH
Filed	: 11/22/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

Mail Date: 05/18/2010

Applicant : Guillaume Sebire
Patent Number : 7573844
Issue Date : 08/11/2009
Application No: 10/301,862
Filed : 11/22/2002

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **1973** 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** 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 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 deterimation in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154(b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kevin R. Spivak
Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
Mclean, VA 22102

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Uwe Klatt et al.	:	
Application No. 10/301,863	:	DECISION ON PETITION
Filed: November 22, 2002	:	TO WITHDRAW
Attorney Docket No. 449122047200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on September 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GUNNAR G. LEINBERG, ESQ.
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603-1051

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OCT 21 2008

OFFICE OF PETITIONS

In re Application of :
Dirk Balfanz, et al. :
Application No. 10/301,931 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 1508/3870 :

This is a decision on the petition, filed July 22, 2008, to revive the above-identified application under 37 CFR 1.137(b).

The petition is noted signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Marc W. Butler 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 decision is being mailed to the person signing the petition, all future correspondence regarding this application will be mailed solely to the address of record.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 26, 2007, 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 March 27, 2008. This decision precedes the mailing of a Notice of Abandonment. On July 22, 2008, the present petition was filed, including, *inter alia*, a four month petition for extension of time.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted on July 22, 2008 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., March 27, 2008. Since, no extension of time fees are due on a petition for revival, the$1640 extension fees included with this petition are being refunded in the form of a credit to counsel's deposit account..

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being

treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and the appeal fee of $510; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application is being referred to Technology Center AU 2436 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARC W. BUTLER
NIXON PEADBODY LLP
401 9TH STREET, NW.
WASHINGTON, DC 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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August 26, 2009

Gunnar G. Leinberg
Nixon Peabody LLP
1100 Clinton Square
Rochester, NY 14604-1792

Patent No.: 7,549,047 B2
Application No.: 10/301,931
Inventor (s): Dirk Balfanz, et al.
Issued: June 16, 2009
Title: **METHOD AND SYSTEM FOR SECURELY SHARING FILES**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will be issued to correct the remaining errors mentioned in your request.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 756-1591

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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GUNNAR G. LIENBERG, ESQ.
NIXON PEABODY, LLP
CLINTON SQUARE
PO BOX 31051
ROCHESTER, NY 14603-1051

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,549,047 :
Issue Date: June 16, 2009 :
Application No. 10/301,931 : ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 1508/3870 :

This is a decision on the petition filed January 14, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. 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/
Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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HARNESS, DICKEY & PIERCE
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of :
Paul E. Nelson :
Application No. 10/301,949 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. 7784-000552 :

This is a decision on the petition, filed February 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 11, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The examiner of Technology Center AU 3726 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
HARNESS, DICKEY & PIERCE
7700 BONHOMME, SUITE 400
ST. LOUIS, MISSOURI 63105

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Paper No.

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of :
Yanke et al. :
Application No. 10/301,961 :
Filed: November 22, 2002 : LETTER REGARDING
Atty Docket No. 093144-9012-01: PATENT TERM ADJUSTMENT

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed August 15, 2005, notifying the Office of an error in applicants' favor in the initial determination of patent term adjustment.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is ZERO (0) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **ZERO (0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 3, 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 10 days. Applicants disclose that the patent term adjustment should have been greater as a second response to final rejection was given a filing date of June 5, 2005, when it appears that the filing date should be July 5, 2005.

Applicants are correct. The period of reduction is 65 days (not 35 days) for applicants' taking until July 5, 2005, in excess of three months, to file a response in compliance with § 1.113(c) to the Office action mailed February 1, 2005. See § 1.704(b).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is ZERO (0) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PALM calculation

PTA Calculations for Application: 10/301961			
Application Filing Date:	11/22/2002	PTO Delay (PTO):	138
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	128
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-30		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
43	03/11/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		65	
42	03/11/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	35		
34	08/03/2005	MAIL NOTICE OF ALLOWANCE			
33	07/27/2005	ISSUE REVISION COMPLETED			
32	07/27/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	07/27/2005	NOTICE OF ALLOWABILITY			
30	07/11/2005	DATE FORWARDED TO EXAMINER			
29	06/05/2005	AMENDMENT AFTER FINAL REJECTION		35	21
28	06/05/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	07/01/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
26	06/28/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
25	04/04/2005	MAIL ADVISORY ACTION (PTOL - 303)			
24	04/01/2005	ADVISORY ACTION (PTOL-303)			
23	03/24/2005	DATE FORWARDED TO EXAMINER			
22	03/21/2005	AMENDMENT AFTER FINAL REJECTION			
21	02/01/2005	MAIL FINAL REJECTION (PTOL - 326)			
20	02/01/2005	FINAL REJECTION			
19	12/22/2004	DATE FORWARDED TO EXAMINER			
18	12/10/2004	RESPONSE AFTER NON-FINAL ACTION		93	15
17	12/10/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	12/10/2004	WORKFLOW INCOMING AMENDMENT IFW			
15	06/08/2004	MAIL NON-FINAL REJECTION	138		-1

14	06/07/2004	NON-FINAL REJECTION			
13	05/19/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	03/01/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	04/18/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	04/17/2003	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
9	04/17/2003	RECEIPT OF ACKNOWLEDGMENT LETTER			
8	01/09/2003	APPLICATION DISPATCHED FROM OIPE			
7	01/09/2003	APPLICATION IS NOW COMPLETE			
6	01/08/2003	LETTER TO APPLICANT - NO GOVERNMENT INTEREST / PATENT TO ISSUE			
5	01/09/2003	APPLICATION IS NOW COMPLETE			
4	12/31/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	12/31/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
2	11/26/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/22/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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LEE & HAYES, PLLC
421 W. RIVERSIDE AVE
SUITE 500
SPOKANE WA 99201

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OFFICE OF PETITIONS

In re Application of :
Wood et al. :
Application No. 10/301,999 : ON PETITION
Filed: 21 November, 2002 :
Atty Dckt No. BOEI-1-1101 :

This is a decision on the petition filed on 7 October, 2004, under 37 CFR 1.137(a)[1] to revive the above-identified application. The petition is also being treated, in the alternative, as a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b).

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition under 37 CFR 1.137(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**.

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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. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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 as discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on 5 May, 2004, for failure to file a proper response to the final Office action mailed on 4 February, 2004, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on 10 May, 2004 (certificate of mailing date 4 May, 2004). However, the examiner determined that the amendment did not place the application in prima facie condition for allowance, and an Advisory Action was mailed on 14 June, 2004. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 31 August, 2004.

Petitioners assert unavoidable delay in that the Advisory Action mailed on 16 June, 2004, was never received because it was sent to an incorrect correspondence address. Specifically, petitioners assert that a new correspondence address was specified in the replies filed on 30 September, 2003, and 4 May, 2004, and in a change of correspondence form filed on 18 April, 2004.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] 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,

[2] 35 U.S.C. § 133.

> there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

A review of the record reveals that the Advisory Action mailed on 16 June, 2004, was returned to the Office as undeliverable on 30 August, 2004. Further, a review of the record reveals that the papers filed by applicants on 30 September, 2003, and 10 May, 2004, stated to "Direct all correspondence to:" Black Lowe & Graham, 701 Fifth Avenue, Suite 4800, Seattle WA 98104. As such, it appears that petitioners attempted to file a change of correspondence address prior to the mailing of the Advisory Action.

Assuming, *arguendo*, that a proper change of correspondence had been timely filed, the failure of applicant to receive an Advisory Action, however, does not render a delay unavoidable.

In this regard, petitioners should note that a proper response to a final rejection (such as the Office action of 4 February, 2004), must be in the form of an appeal or a continuation application. The filing of an amendment placing the application in condition for allowance is permitted under the rules, but entry of such an amendment is not a matter of right. It is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not

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[3] 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).

[4] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

relieve petition of the duty of taking appropriate action to save the application from abandonment.
Therefore, whether petitioners received an Advisory Action or not, prior to the expiration of the six month statutory period, the only right petitioner was entitled to was that of appealing the final rejection, filing a continuing application, or requesting continued examination by filing a submission and the required fee. This application became abandoned for failure on the part of petitioner to file an appeal, a continuing application, or a request for continued examination accompanied by a submission.

As noted in MPEP 711.03(c):

> 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.[6] 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. Finally, 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" due to: (a) the applicant's reliance upon oral advice by PTO employees; or (b) the PTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[7]

Furthermore, petitioner is advised that failure to timely receive an Advisory Action is not a basis of unavoidable delay. 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 an applicant

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[6] 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 (Comm'r Pat. 1891).

[7] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

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.[8]

In this case, counsel admittedly received the final Office action mailed on 4 February, 2004, but chose not to file a proper reply within the allotted time period. There is no showing that applicant was precluded, as alleged, from timely filing a Notice of Appeal. In summary, the period for filing a proper reply, such as a Notice of Appeal or continuing examination, was not tolled by the filing of an amendment after final rejection or the mailing of an Advisory Action

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

As petitioner requests that the petition be treated as a petition for revival under 37 CFR 1.137(b)[9] if the holding of abandonment is not withdrawn, the petition will be considered under 37 CFR 1.137(b).

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[8] See MPEP 711.03(c)(III)(C)(2). See In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[9] 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**. Receipt of the request for continued examination (RCE) filed with the present petition is acknowledged.

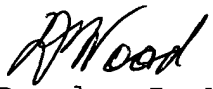
The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

It is noted that the RCE Request form indicates that the petition is the required submission under 37 CFR 1.114. However, a petition to revive, in itself, does not constitute a proper submission under 37 CFR 1.114. As such, the amendment after final rejection previously filed will be construed as the submission required under 37 CFR 1.114.

Receipt of the revocation and power of attorney filed on 6 April, 2006, is acknowledged.

The address in the petition is different than the correspondence address of record. A copy of this decision is being mailed to the address in the petition. All future correspondence will be mailed solely to the address of record.

The application will be forwarded to Technology Center Art Unit 3723 for further processing.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

cc: Black, Lowe & Graham PLLC
701 Fifth Avenue, Suite 4800
Seattle WA 98104

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OFFICE OF PETITIONS

In re Application of
YANG, et al.
Application No. 10/302,015
Filed: November 21, 2002
Attorney Docket No. RMI-P303-US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 1, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "at the request of Raza Microelectronics, Inc.", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Raza Microelectronics, Inc.**
Legal Department
18920 Forge Drive
Cupertino, CA 95014-0701

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/22/05

Paper No.: —

TO SPE OF : ART UNIT ~~2878~~ 2884

SUBJECT : Request for Certificate of Correction on Patent No.: 6894303 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

CORRECT MINOR TYPOGRAPHICAL ERRORS NOT AFFECTING THE SCOPE OF THE CLAIMS

DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2884
Art Unit

DATE 4/30/07 APPLICATION NUMBER 10/302029

DOC CODE RET. DEC-TC DOC DATE 5/1/07

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of
Robert B. Staszewski, et al.
Application No. 10/302,029
Filed: November 22, 2002
Attorney Docket No. TI-33501

ON PETITION

This is a decision in response to the petition, filed January 4, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 29, 2006. This decision precedes the mailing of a Notice of Abandonment. On January 4, 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 an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2611 for consideration of the amendment filed January 4, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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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OFFICE OF PETITIONS

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ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

In re Application of :
Peter R. Baum :
Application No. 10/302,041 : DECISION ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 2844-USA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 6, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on April 6, 2007 was

subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1644 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE WA 98119

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OFFICE OF PETITIONS

In re Application of :
Peter R. Baum :
Application No. 10/302,041 : DECISION ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 2844-US-CNT2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 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, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply received May 5, 2009, 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 1644 for appropriate action by the Examiner in the normal course of business on the reply received May 5, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of :
Ron Furuta et al :
Application No. 10/302,045 : DECISION GRANTING PETITION
Filed: November 21, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. ROYL-1-1002 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 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 December 16, 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 Technology Center AU 3712.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Jihperng Leu et al
Application No. 10/302,073
Filed: November 21, 2002
Attorney Docket No. 042390.P14696

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 16, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 17, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 2823.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

SLATER & MATSIL, LLP
17950 PRESTON RD, SUITE 1000
DALLAS, TX 75252-5793

In re Patent No. 7,046,523 :
Issue Date: May 16, 2006 :
Application No. 10/302,095 : NOTICE
Filed: November 21, 2002 :
Attorney Docket No. CDW01-090

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,544,669
Issued: June 9, 2009
Application No. 10/302,098
Filed: November 21, 2002
Attorney Docket No. 022259-000710US

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(d)" filed August 4, 2009 requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred eighty-one (481) days to one thousand forty-two (1042) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On June 9, 2009, the above-identified application matured into US Patent No. 7,544,669 with a patent term adjustment of 481 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 1042 days, which includes 561 days due to exceeding three year pendency.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (561 days) and the period of Examination Delay (719 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 examination delay. As such, patentees assert entitlement to a patent term adjustment of 1042 days (719 + 561 reduced by 0 overlap – 238 (applicant delay)).

The Office contends that all 561 days for over three year pendency overlap with the 719 days accorded for Office delay during the pendency of the application, and thus, no additional days were entered for over three year delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, November 21, 2002, to the date the patent the first Request for Continued Examination was filed June 5, 2007. Prior to the issuance of the patent, 719 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 561 days for Office delay in issuing the patent overlap with the 719 days of Examination delay. During that time, the issuance of the patent was delayed by 719 days, not 719 + 561 days. The Office experienced 719 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a)(1) and (a)(2) within the prescribed time frames. Nonetheless, given the 561 days of Office delay and the time allowed within the time frames for processing and examination, the application was pending three years and 561 days. The Office did not delay 719 days and then an additional 561 days. Accordingly, 719 days of patent term adjustment (not 719 and 561 days) was properly entered. The period of delay of 561 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 719 days attributable to grounds specified in § 1.702(a)(1) and (a)(2). Entry of both periods is not warranted. 719 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 561 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term

adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of :
John Slaby :
Application No.: 10/302,121 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No: 1365.004US2 :

This is in response to the petition under 37 CFR 1.137(b) filed February 12, 2007.

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 file timely and proper response to the final Office action mailed August 26, 2005, which set a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on November 27, 2005. A Notice of Abandonment was mailed on March 7, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

As to item (1) above, Examiner Steven Sax has determined that the response filed February 12, 2007, does not place the application in condition for allowance. The petition must be dismissed because of the lack of a proper response to the final Office action mailed August 26, 2005. The renewed petition must accompanied by a proper response to the final Office action, which may include an amendment that places the application in condition for allowance or Request for Continued Examination under 37 CFR 1.114. Questions regarding the determination of the sufficiency of the reply filed February 12, 2007, should be directed to Examiner Sax.

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

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MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of

John Slaby

Application No. 10/302,121

Filed: November 22, 2002

Attorney Docket No. 1365.004US2

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed in the above-cited application on August 26, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was not received within the allowable period and the application became abandoned on November 27, 2005. A Notice of Abandonment was mailed on March 7, 2006. A petition under 37 CFR 1.137(b) was first filed on February 12, 2007, and dismissed by a decision mailed July 13, 2007.

The Request for Continued Examination, filed August 6, 2007, is noted and made of record. Deposit account 19-0743 will be charged $395.00 for the fee for the Request for Continued Examination.

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

In re Patent No. 6,884,791 :
Issued: April 26, 2005 :
Application No. 10/302,124 : PATENT TERM ADJUSTMENT
Filed: November 22, 2002 :
Atty. Dkt. No.: 02-1201-A :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed May 24, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 6,884,791 on April 26, 2005. The instant application was timely filed May 24, 2005. The patent issued with a PTA of 43 days. Applicants argue that the adjustment accorded the instant patent was, without warrant, reduced 120 days in connection with the submission of an was Information Disclosure Statement (IDS) on July 1, 2004.

A review of the application history reveals that in accordance with 37 CFR 1.702(a)(4), an adjustment of 176 days can be attributed to the Office. The adjustment began November 2, 2004, the day after the date that is four months after the date of issue fee payment, and ended April 26, 2005, the date the patent issued.

The adjustment of 176 days was reduced 13 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental response submitted March 25, 2004. The reduction began March 13, 2004, the day after the date that the initial response was filed, and ended March 25, 2004, the date the supplemental response was filed.

The adjustment of 176 days was further reduced 120 days, the maximum period of reduction allowed by law, in accordance with 37 CFR 1.704(c)(10) in connection with the IDS submitted July 1, 2004.

In accordance with 37 CFR 1.704(d), a paper containing only an information disclosure statement in compliance with 37 CFR 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the

application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable

Review of the IDS submitted July 1, 2004 reveals that the IDS, as submitted, lacked the requisite statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. Instead, the statement contained in the IDS submitted July 1, 2004 indicates that the references listed in the IDS were first cited in an International search report no more than three months before the filing of the IDS.

Accordingly, the IDS submitted July 1, 2004 is deemed a failure to engage in reasonable efforts to conclude prosecution (or processing) as the IDS did not comply with the provisions set forth at 37 CFR 1.704(d).

Accordingly, at the time of issuance, the application was entitled to an adjustment of 43 days, as indicated on the patent.

Applicant is given one (1) month to request reconsideration of this decision. The period of time for reconsideration is not extendible under 73 CFR 1.136(a) or 37 CFR 1.136(b).

The Office acknowledges submission of the required application fee of $200.00.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Patent No. 6,884,791 :
Issued: April 26, 2005 :
Application No. 10/302,124 : PATENT TERM ADJUSTMENT
Filed: November 22, 2002 :
Atty. Dkt. No.: 02-1201-A :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed September 22, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**. Applicants are given 30 days to reply. No extensions under 37 CFR 1.136 will be granted.

The above-identified application matured into U.S. Pat. No. 6,884,791 on April 26, 2005. The instant application was timely filed May 24, 2005. The patent issued with a PTA of 43 days. An application for PTA was filed May 24, 2005 and dismissed September 22, 2005. Applicants continue to argue that the adjustment was improperly reduced 120 days in connection with the IDS submission on July 1, 2004.

In accordance with 37 CFR 1.704(d), a paper containing only an information disclosure statement in compliance with 37 CFR 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section **if** it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable

The IDS submitted July 1, 2004 lacked the requisite statement that each item of information contained in the information disclosure statement was first cited in **any** communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the

information disclosure statement. Instead, the statement contained in the IDS submitted indicated that the references listed in the IDS were first cited in an International search report no more than **three months** before the filing of the IDS.

Patentees maintain that 37 CFR 1.704(d) does not require "the statement," as presumed by the Office. Patentees further argue that what is important is not whether or not the statement is made, but whether applicants undertook reasonable efforts to complete prosecution. Applicants argue that the references were first obtained by applicants on June 8, 2004, which is within 23 days of first receipt of the documents and filed the IDS July 1, 2004, thus, applicants did engage in reasonable effort to complete prosecution in compliance with 35 USC 154(b)(2)(C)(i).

Patentees' arguments have been considered but are not found to be persuasive. While the statement is not per se required, lack of the requisite will result in a reduction of patent term adjustment for any IDS submission without the statement set forth at 37 CFR 1.704(d). The arguments are not persuasive because applicants are required to certify that each reference was first cited in ANY communication within thirty-days. This particular language is addressing the scenario where patentees' are in receipt of TWO foreign search reports and patentees did not submitting such IDS reference with 30 days of the first received communication from a foreign patent office although it was within 30 days of the second foreign communication. In your case the evidence would be sufficient to determine that the report was filed within 30-days of the International search report but the question still remains if this reference may have been known because of an earlier search report and not submitted earlier.

Accordingly, at the time of issuance, the application was entitled to an adjustment of 43 days, as indicated on the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Chicago IL 60606

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OFFICE OF PETITIONS

In re Patent No. 6,884,791 :
Issued: April 26, 2005 :
Application No. 10/302,124 : PATENT TERM ADJUSTMENT
Filed: November 22, 2002 :
Dkt. No.: 02-1201-A :

This is a decision on the "SECOND REQUEST FOR RECONSIDERATION OF APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed October 25, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is GRANTED.

The above-identified application matured into U.S. Patent No. 6,884,791 on April 26, 2005. The instant second request for reconsideration was timely filed as required by the decision mailed September 29, 2006. The patent issued with a PTA of 43 days. Patentees continue to argue that the reduction of 120 days under 37 CFR 1.704(c)(10) in connection with the information disclosure statement (IDS) filed July 1, 2004 is inappropriate.

In accordance with 37 CFR 1.704(d), "[a] paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable."

A statement in compliance with 37 CFR 1.97 and 1.98 will not be considered (result in a reduction) under 37 CFR 1.704(c)(6),

1.704(c)(8), 1.704(c)(9), or 1.704(c)(10) if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This provision will permit applicants to submit information first cited in a communication from a foreign patent office in a counterpart application to the Office without a reduction in patent term adjustment if an information disclosure statement is promptly (within thirty days of receipt of the first communication) submitted to the Office. Compliance with the statement requirement of 37 CFR 1.704(d) does not substitute for compliance with any relevant requirement of 37 CFR 1.97 or 1.98. 37 CFR 1.704(d) also provides that this thirty-day period is not extendable.

The IDS submitted July 1, 2004 contained a statement that indicated the references listed in the IDS were cited in an international search report no more than three months before the filing of the IDS.

The IDS submitted July 1, 2004 did not contain a statement that "each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement."

Nonetheless, patentees have clarified that the items cited in the IDS submitted July 1, 2004 were not received by any individual designated in 37 CFR 1.56(c) more than 30 days prior to the filing of the IDS, despite the fact that the IDS did not contain a statement to this effect. Patentees further state that the international search report was received June 8, 2004, which is less than 30 days prior to submission of the IDS. Patentees further state that the items cited in the international report received June 8, 2004 and cited in the IDS submitted July 1, 2004 were not previously cited in an earlier received international search report.

Patentees' arguments have been carefully considered and found convincing. Accordingly, in this instant, applicants' failure to set forth the statement required at 37 CFR 1.704(d), i.e., a statement that "each item of information contained in the

information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement," will not be deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10).

However, patentees are advised that any future information disclosure statement submitted that fails to comply with the required statement set forth at 37 CFR 1.704 (d) will result in said submission resulting in adverse patent term adjustment consequences in accordance with 37 CFR 1.704(c)(8), (c)(9), and (c)(10).

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 163 days as argued by patentees.

The required PTA application fee of $200.00 was previously submitted. Thus, no additional fee is due at this time.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 163 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,884,791 B2
DATED	:	April 26, 2005
INVENTOR(S)	:	Anderson, 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 43 days

Delete the phrase "by 43 days" and insert – by 163 days--

Day : Tuesday
Date: 3/25/2008

PALM INTRANET

Time: 15:12:30

PTA Calculations for Application: 10/302124			
Application Filing Date:	11/22/2002	PTO Delay (PTO):	176
Issue Date of Patent:	04/26/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	133
Post-Issue Petitions:	0	Total PTA (days):	163
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	03/25/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
50	04/26/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	176		45
49	03/02/2005	RECEIPT INTO PUBS			
48	03/01/2005	DISPATCH TO FDC			
47	03/01/2005	DISPATCH TO FDC			
46	03/01/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
45	07/01/2004	ISSUE FEE PAYMENT VERIFIED			
44	07/02/2004	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
43	02/24/2005	RECEIPT INTO PUBS			
42	02/07/2005	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
41	02/07/2005	RESPONSE TO AMENDMENT UNDER RULE 312			
40	07/01/2004	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	42
39	07/01/2004	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		120	42
38	01/06/2005	RECEIPT INTO PUBS			
37	07/01/2004	REFERENCE CAPTURE ON IDS			
36	07/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	
35	09/01/2004	RECEIPT INTO PUBS			
34	07/01/2004	ISSUE FEE PAYMENT RECEIVED			
33	04/28/2004	RECEIPT INTO PUBS			
32	04/27/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
31	04/02/2004	MAIL NOTICE OF ALLOWANCE			

30	04/02/2004	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
29	04/01/2004	ISSUE REVISION COMPLETED			
28	04/01/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
27	04/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
26	04/01/2004	NOTICE OF ALLOWABILITY			
25	03/31/2004	DATE FORWARDED TO EXAMINER			
24	03/25/2004	SUPPLEMENTAL RESPONSE		13	20
23	03/31/2004	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
22	03/30/2004	TERMINAL DISCLAIMER FEE PAID			
21	03/23/2004	DATE FORWARDED TO EXAMINER			
20	03/12/2004	AMENDMENT AFTER FINAL REJECTION			
19	01/13/2004	MAIL FINAL REJECTION (PTOL - 326)			
18	01/12/2004	FINAL REJECTION			
17	11/05/2003	DATE FORWARDED TO EXAMINER			
16	10/17/2003	RESPONSE AFTER NON-FINAL ACTION			
15	07/25/2003	MAIL NON-FINAL REJECTION			
14	07/25/2003	NON-FINAL REJECTION			
13	02/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	04/09/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	04/03/2003	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
10	03/27/2003	APPLICATION DISPATCHED FROM OIPE			
9	03/27/2003	APPLICATION IS NOW COMPLETE			
7	02/24/2003	ADDITIONAL APPLICATION FILING FEES			
6	02/24/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	01/16/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	01/02/2003	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
2	11/26/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/22/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

freescale semiconductor

FACSIMILE

FREESCALE SEMICONDUCTOR LAW DEPARTMENT

DATE: November 28, 2006

TO: Examiner Hoang-Quan Ho

USPTO (LOCATION)	(571) 273-8711 (FAX NUMBER)
Sonya Williams (ADDRESSEE)	
USPTO (LOCATION)	(571) 273-6637 (FAX NUMBER)

FROM: Pat Thomas for Robert King (SENDER) (512) 996-6839 (EXTENSION)

TOTAL NUMBER OF PAGES 25 (including this page)

IF YOU HAVE ANY TROUBLE OR QUESTIONS WITH TRANSMISSION, OR HAVE RECEIVED IT IN ERROR, PLEASE CALL:(512) 996-6839

Docket No.: SC12547TK
Applicant: John Gehman et al.
Serial No.: 10/302,130
Art Unit: 2818
Filed: November 22, 2002

Enclosed per your request are copies of:

1.	x	1 page Notice of Abandonment
2.	x	22 page Petition for Revival & Supporting Documents submitted March 3, 2003
3.	X	1 page Notice Granting Petition

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE:

ON: _____ _____
Date Signature

FREESCALE SEMICONDUCTOR LAW DEPARTMENT
7700 W. PARMER LANE MD: TX32/PL02
AUSTIN, TEXAS 78729
Fax Number (512) 996-6854

NOTICE: This facsimile transmission may contain information that is confidential, privileged or exempt from disclosure under applicable law. It is intended only for the person to whom it is addressed. Unauthorized use, disclosure, copying or distribution may expose you to legal liability. If you have received this transmission in error, please immediately notify us by telephone (collect) to arrange for return of the documents received and any copies made. Thank you.

UNITED STATES PATENT AND TRADEMARK OFFICE

JLC 4/5/04 JC FY

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

MOTOROLA INC
AUSTIN INTELLECTUAL PROPERTY
LAW SECTION
7700 WEST PARMER LANE MD: TX32/PLO2
AUSTIN, TX 78729

COPY MAILED

MAR 1 8 2004

OFFICE OF PETITIONS

In re Application of :
John Gehman, et al. :
Application No. 10/302,130 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. SC12547TK :

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed January 2, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 3, 2003.

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

Received

MAR 2 6 2004

Law Dept.

PETITION FOR REVIVAL OF APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

DOCKET NO.: SC12547TK
APPLICANT: John Gehman et al.
TITLE: DIGITAL AND RF SYSTEM AND METHOD THEREFOR
APPL NO: 10/302,130
FILE DATE: November 22, 2002
MAILED: February 26, 2004

1.	x	Return Postal Card
2.	x	2 page Petition for Revival of abandoned patent
3.	x	2 page Response to Notice of Abandonment
4.	X	1 page copy of Notice of Abandonment - Part 2
5.	X	1 page copy of fax transmittal sheet faxed on 3/3/03
6.	X	1 page copy of Response to Notice to File Missing Parts faxed on 3/3/03
7.	X	1 page copy of fee transmittal faxed on 3/3/03.
8.	X	1 page copy of Notice to File Missing Parts faxed 3/3/03.
9.	X	12 page copy of executed Declaration faxed 3/3/03.

JC/ec

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number SC12547TK

First Named Inventor: John Gehman Art Unit: 2811

Application Number: 10/302,130 Examiner:

Filed: November 22, 2002

Title: DIGITAL AND RF SYSTEM AND METHOD THEREFOR

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

Note: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the Untied 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(I)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of a RESPONSE TO MISSING PARTS, Executed Declaration, Fee Transmittal
_____ (identify type of reply)

☒ has been filed previously on March 3, 2003

☐ is enclosed herewith

B. The issue fee of $ _____

☐ has been paid previously on _____

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137. 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 Office, 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.

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)(iii)(C) and (D))]

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.

2/23/04
Date

James L. Clingan
Signature

(512) 996-6839
Telephone Number

James L. Clingan, Jr.
Typed or printed name

Address

Address

Enclosures:
[X] Fee Payment
[X] Reply
[ ] Terminal Disclaimer Form
[ ] Additional sheets containing statements establishing unintentional delay
[X] Other: Response to Missing Parts & accompanying documents

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

[X] 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 data shown below to the United States Patent and Trademark office at (703) 308-6916.

2/26/04
Date

Elaine Cox
Signature

Elaine Cox
Typed or printed name of person signing certificate

PAGE 5/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

DOCKET NO. SC12547TK

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S)	John Gehman	GROUP ART UNIT:	2811
APPLN. NO.:	10/302,130	EXAMINER:	
FILED:	November 22, 2002		
TITLE:	DIGITAL AND RF SYSTEM AND METHOD THEREFOR		

Certificate of Mailing

Date of deposit: 2/26/04

I hereby certify that this paper is being deposited with the United States Postal Service on the date indicated above, as first-class mail, with sufficient postage attached thereto, in an envelope addressed to the Commissioner for Patents, Alexandria, VA 22313.

Elaine Cox
Signature of Person Mailing Paper

Elaine Cox
Printed Name of Person Mailing Paper

RESPONSE TO NOTICE OF ABANDONMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Notice of Abandonment dated February 17, 2004, attached are:

1) copy of the Fax Transmittal Sheet dated March 3, 2003 which lists all the items faxed;
2) copy of the Response to Notice of Missing Parts of Application;
3) copy of the Fee Transmittal;
4) copy of the Notice to File Missing Parts;
5) Executed Declaration
6) copy of our Transmission Result Sheet showing all 17 pages went through;
7) copy of the Notice of Abandonment Under 37 CFR 1.53 (f) or (g).

In light of the fact that the documents were sent to your office in a timely manner, Applicants respectfully request that the Notice of Abandonment under 37 CFR 1.53 (f) or (g) be withdrawn.

If Applicant has overlooked any additional fees, or if any overpayment has been made, the Commissioner is hereby authorized to credit or debit Deposit Account 502117.

Respectfully submitted,

SEND CORRESPONDENCE TO:

Motorola, Inc.
Law Department

Customer Number: 23125

By: James L. Clingan Jr.

James L. Clingan, Jr.
Attorney of Record
Reg. No.: 30,163
Telephone: (512) 996-6839
Fax No.: (512) 996-6854
Email: Jim.Clingan@Motorola.com

PAGE 7/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

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
10/302,130	11/22/2002	John Gehman	SC12547TK

CONFIRMATION NO. 9802

ABANDONMENT/TERMINATION LETTER

OC000000011911163

23125
MOTOROLA INC
AUSTIN INTELLECTUAL PROPERTY
LAW SECTION
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN, TX 78729

Date Mailed: 02/17/2004

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 01/02/2003.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282.Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

A copy of this notice MUST be returned with the reply.

Tequent Woldeyes
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

MOTOROLA

FAX TRANSMITTAL SHEET

Motorola, Inc.
Law Department
Telephone: (512) 996-6839
Facsimile: (512) 996-6854

17 Number of Pages (including this page)

Date: February 28, 2003

To: Customer Service Center, Initial Patent Exam Division - 2811

Location: United States Patent and Trademark Office

Fax No.: (703) 872-9318

From: James L. Clingan, Jr. - 30,163

Subject: 10/302,130 - John Gehman

NOTICE: This facsimile transmission may contain information that is confidential, privileged, or exempt from disclosure under applicable law. It i intended only for the person to whom it is addressed. Unauthorized use, disclosure, copying or distribution may expose you to legal liability. If yo have received this transmission in error, please immediately notify us by telephone (collect) to arrange for return of the documents received and an copies made. Thank you.

MESSAGE: Enclosed herewith, please find a Response to Notice to File Missing Parts of Application for filing in the below-identified application. If Applicant has overlooked any fees, or if any overpayment has been made, the Commissioner is hereby authorized to credit or debit Deposit 502117.

ALL ITEMS MARKED WITH AN "X" ARE INCLUDED:

1.	x	1 page Facsimile Cover Sheet
2.	x	1 page Response to Notice to File Missing Parts of Application
3.	x	12 page Executed Declaration Combined with Power of Attorney
4.	X	1 page Fee Transmittal (in duplicate)
5.	X	1 page Notice to File Missing Parts of Application

Paid by Deposit Account: 502117 $130 ✓ 3/3/03 ec

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE:

ON: 3/3/03 Elaine Cox
Date Signature

PLEASE GIVE THESE PAPERS TO:

DOCKET NO.: SC12547TK

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	John Gehman
APPLICATION NO.:	10/302,130
FILED:	November 22, 2002
GROUP ART UNIT:	2811
TITLE:	DIGITAL AND RF SYSTEM AND METHOD THEREFOR

Certificate of Mailing

Date of deposit: 3/3/03

I hereby certify that this paper is being deposited with the United States Postal Service on the date indicated above, as first-class mail, with sufficient postage attached thereto, in an envelope addressed to the Commissioner for Patents, Washington, D.C.

Elaine Cox

Signature of Person Mailing Paper

Elaine Cox

Printed Name of Person Mailing Paper

Commissioner for Patents
Washington, D.C. 20231

Attention: Customer Service Center
Initial Patent Examination Division

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Sir:

Responsive to the Notice to File Missing Parts of Application dated SC12547TK, please find enclosed:

- ☒ 12 page Declaration Combined with Power of Attorney (2 declarations, 6 pgs. each)
- ☒ 1 page copy of Notice to File Missing Parts of Application
- ☒ 1 page Fee Transmittal (in duplicate)

The Commissioner is hereby authorized to charge all fees due to Account No. 502117. A fee transmittal is enclosed.

Respectfully submitted,
John Gehman

SEND CORRESPONDENCE TO:

Motorola, Inc.
Law Department
Customer Number: 23125

By: James L. Clingan, Jr.
JAMES L. CLINGAN, JR.
Attorney of Record
Reg. No.: 30,163
Telephone: (512) 996-6839

FEE TRANSMITTAL

Patent fees are subject to annual revision

TOTAL AMOUNT OF PAYMENT ($) 130

Complete If Known	
Application Number	10/302,130
Filing Date	November 22, 2002
First Named Inventor	John Gehman
Examiner Name	
Group Art Unit	2811
Attorney Docket No.	SC12547TK

METHOD OF PAYMENT

1. [X] The Commissioner is hereby authorized to charge indicated fees and credit any overpayment to:

Deposit Account Number: 502117

Deposit Account Name: Motorola, Inc.

[X] Charge Any Additional Fee required under 37 CFR 1.16 and 1.17

[ ] Applicant claims small entity status. See 37 CFR 1.27

2. [ ] Payment Enclosed:

[ ] Check [ ] Credit Card [ ] Money Order [ ] Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)		Fee Paid
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES

		Previously Paid**		Extra Claims		Fee from below		Fee Paid
Total Claims		- 20	=		X	18	=	
Independent Claims		- 3	=		X	84	=	
Multiple Dependent						280	=	

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	* Reissue independent claims over original patent
1205	18	2205	9	*Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)

**OR NUMBER PREVIOUSLY PAID, IF GREATER THAN STANDARD ALLOWANCE.
*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	
1051	130	2051	65	Surcharge – late filing fee or oath	130
1052	50	2052	25	Surcharge – late Provisional filing	
1053	130	1053	130	Non-English specification	
1812	2520	1812	2520	For filing a request for ex parte Reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1840*	1805	1840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1450	2254	725	Extension for reply within fourth month	
1255	1970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1510	1451	1510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1300	2453	650	Petition to revive - unintentional	
1501	1300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of IDS	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

* Reduced by Basic Filing Fee paid SUBTOTAL (3) ($) 130

SUBMITTED BY

Name (Print/Type)	James L. Clingan, Jr.	Registration No.	30,163	Telephone	(512) 996-6839
Signature	James L Clingan, Jr.	Date	3/3/03		

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/302,130	11/22/2002	John Gehman	SC12547TK

CONFIRMATION NO. 9802

23125
MOTOROLA INC
AUSTIN INTELLECTUAL PROPERTY
LAW SECTION
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN, TX 78729

Received
JAN 08 2003
Motorola Law Dept.

FORMALITIES LETTER

OC000000009324306

Date Mailed: 01/02/2003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

margaret

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

Docket No. SC12547TK

DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63) COMBINED WITH POWER OF ATTORNEY

☐ Declaration Submitted with Initial Filing	☒ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16(e)) required)	Attorney Docket Number	SC12547TK
		First Named Inventor	John Gehman
		Application Number	10/302,130
		Filing Date	November 22, 2002
☒ Regular (Utility) Application	☐ Design application	Group Art Unit	2811
		Examiner Name	Unknown

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DIGITAL AND RF SYSTEM AND METHOD THEREFOR

the specification of which:

☐ is attached hereto

☒ was filed on: November 22, 2002

as U.S. Serial No.: 10/302,130

and was amended on: _____ *(if applicable)*

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent or inventor's certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed::

Prior Foreign Application Number(s)	Country	Foreign Filing Date *(MM/DD/YYYY)*		Certified Copy Attached?
				☐ Yes ☐ No
				☐ Yes ☐ No

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

PAGE 13/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

Provisional Application Serial No.:	
Provisional Application Filing Date:	

I hereby claim the priority benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which is material to the patentability of this application and which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. Application(s):

☒ no such application(s) filed
☐ such application(s) identified as follows:

Application No.	Filing Date *(day, month, year)*	Status *(Patented, Pending, Abandoned)*

I hereby declare that: as to any claimed subject matter of this application which is common to my earlier United States or foreign application(s), if any, which I have identified above and claimed the benefit of priority thereof, I do not believe that the same was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the first of said earlier application(s), or in public use or on sale in the United States more than one year prior to the first of said earlier application(s), and that the said common subject matter has not been patented or made the subject of an inventor's certificate before the date of the first of said earlier U.S. application(s) in any country foreign to the United States on an application, filed by me or my legal representatives or assigns more than twelve months (six months if the present application is a Design patent application) prior to the first of said earlier U.S. application(s), if any; and that, as to any claimed subject matter of this application which is not common to said earlier application(s), if any, I do not know and do not believe that the same was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States more than one year prior to the date of this application, and that said subject matter has not been patented or made the subject of an inventor's certificate in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months (six months if the present application is a Design patent application) prior to the date of this application:

I hereby appoint the attorney(s) or agent(s) associated with: Customer Number 23125 to prosecute this application and transact all business in the patent and trademark office connected therewith.

Address all telephone calls to:

James L. Clingan, Jr.
Telephone: (512) 996-6839
Facsimile: (512) 996-6854

Address all correspondence to: Customer Number 23125

PAGE 14/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first-named or sole inventor	JOHN GEHMAN		
Inventor's signature	John B. Gehman	Date	FEB 5, 2003
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	116 Schooner Drive (Street Address)		
Austin (City)	Texas (State or Country)	78738 (Zip Code)	

Full name of second-named joint inventor	BRIAN H. CHRISTENSEN		
Inventor's signature		Date	
Residence	Dybvad (City)	Denmark (State or Foreign Country)	
Citizenship	Denmark (Country)		
Post Office Address	Aalborgvej 309 (Street Address)		
Dybvad (City)	Denmark (State or Country)	9352 (Zip Code)	

PAGE 15/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

Full name of third-named joint inventor: JAMES H. KLEFFNER

Inventor's signature: James H. Kleffner Date: 2-21-03

Residence: Leander (City) Texas (State or Foreign Country)

Citizenship: United States (Country)

Post Office Address: 15747 Booth Circle (Street Address)

Leander	Texas	78641
City	State or Country	Zip Code

Full name of fourth-named joint inventor: ADDI B. MISTRY

Inventor's signature: Addi B. Mistry Date: 2/21/03

Residence: Austin (City) Texas (State or Foreign Country)

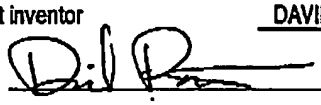
Citizenship: United States (Country)

Post Office Address: 9255 Scenic Bluff Drive (Street Address)

Austin	Texas	78733
City	State or Country	Zip Code

PAGE 16/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

Full name of fifth-named joint inventor	DAVID PATTEN		
Inventor's signature		Date	05 FEB 2003
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	8810 Peppergrass Cove (Street Address)		
Austin (City)	Texas (State or Country)	78745 (Zip Code)	

Full name of sixth-named joint inventor	JOHN ROHDE		
Inventor's signature		Date	
Residence	Ega (City)	Denmark (State or Foreign Country)	
Citizenship	Denmark (Country)		
Post Office Address	Skaering Parkvej 53 (Street Address)		
Ega (City)	Denmark (State or Country)	8250 (Zip Code)	

PAGE 17/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

Full name of seventh-named joint inventor	Daryl Wilde		
Inventor's signature	Daryl Wilde	Date	2/4/2003
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	2014 Rachel Ridge (Street Address)		
CEDAR PARK Austin (City)	Texas (State or Country)	78613 (Zip Code)	

PAGE 18/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63) COMBINED WITH POWER OF ATTORNEY

☐ Declaration Submitted with Initial Filing	☒ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16(e)) required)	Attorney Docket Number	SC12547TK
		First Named Inventor	John Gehman
		Application Number	10/302,130
		Filing Date	November 22, 2002
☒ Regular (Utility) Application	☐ Design application	Group Art Unit	2811
		Examiner Name	Unknown

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DIGITAL AND RF SYSTEM AND METHOD THEREFOR

the specification of which:

☐ is attached hereto ☒ was filed on: November 22, 2002

as U.S. Serial No.: 10/302,130

and was amended on: _____ *(if applicable)*

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent or inventor's certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed::

Prior Foreign Application Number(s)	Country	Foreign Filing Date *(MM/DD/YYYY)*		Certified Copy Attached?
				☐ Yes ☐ No
				☐ Yes ☐ No

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

PAGE 19/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

Provisional Application Serial No.:	
Provisional Application Filing Date:	

I hereby claim the priority benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which is material to the patentability of this application and which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. Application(s):

☒ no such application(s) filed
☐ such application(s) identified as follows:

Application No.	Filing Date *(day, month, year)*	Status *(Patented, Pending, Abandoned)*

I hereby declare that: as to any claimed subject matter of this application which is common to my earlier United States or foreign application(s), if any, which I have identified above and claimed the benefit of priority thereof, I do not believe that the same was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the first of said earlier application(s), or in public use or on sale in the United States more than one year prior to the first of said earlier application(s), and that the said common subject matter has not been patented or made the subject of an inventor's certificate before the date of the first of said earlier U.S. application(s) in any country foreign to the United States on an application, filed by me or my legal representatives or assigns more than twelve months (six months if the present application is a Design patent application) prior to the first of said earlier U.S. application(s), if any; and that, as to any claimed subject matter of this application which is not common to said earlier application(s), if any, I do not know and do not believe that the same was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States more than one year prior to the date of this application, and that said subject matter has not been patented or made the subject of an inventor's certificate in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months (six months if the present application is a Design patent application) prior to the date of this application.

I hereby appoint the attorney(s) or agent(s) associated with: Customer Number 23125 to prosecute this application and transact all business in the patent and trademark office connected therewith.

Address all telephone calls to:

James L. Clingan, Jr.
Telephone: (512) 996-6839
Facsimile: (512) 996-6854

Address all correspondence to: Customer Number 23125

PAGE 20/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first-named or sole inventor	JOHN GEHMAN		
Inventor's signature	_____	Date	_____
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	116 Schooner Drive (Street Address)		
Austin (City)	Texas (State or Country)	78738 (Zip Code)	

Full name of second-named joint inventor	BRIAN H. CHRISTENSEN		
Inventor's signature	Brian H. Christensen	Date	Feb. 13th 2003
Residence	~~Dybvad~~ Oestervraa BHC 2/13-03 (City)	Denmark (State or Foreign Country)	
Citizenship	Denmark (Country)		
Post Office Address	~~Aalborgvej 309~~ Hjoerringvej 267 BHC 2/13-03 (Street Address)		
~~Dybvad~~ Oestervraa BHC 2/13-03 (City)	Denmark (State or Country)	~~9352~~ 9750 BHC 2/13-03 (Zip Code)	

Docket No. SC12547TK

Full name of third-named joint inventor	JAMES H. KLEFFNER		
Inventor's signature		Date	
Residence	Leander (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	15747 Booth Circle (Street Address)		
Leander (City)	Texas (State or Country)	78641 (Zip Code)	

Full name of fourth-named joint inventor	ADDI B. MISTRY		
Inventor's signature		Date	
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	9255 Scenic Bluff Drive (Street Address)		
Austin (City)	Texas (State or Country)	78733 (Zip Code)	

PAGE 22/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

Full name of fifth-named joint inventor	DAVID PATTEN		
Inventor's signature		Date	
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	8810 Peppergrass Cove (Street Address)		
Austin (City)	Texas (State or Country)	78745 (Zip Code)	

Full name of sixth-named joint inventor	JOHN ROHDE		
Inventor's signature	[signature]	Date	13/2-03
Residence	Ega (City)	Denmark (State or Foreign Country)	
Citizenship	Denmark (Country)		
Post Office Address	Skaering Parkvej 53 (Street Address)		
Ega (City)	Denmark (State or Country)	8250 (Zip Code)	

PAGE 23/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

Docket No. SC12547TK

Full name of seventh-named joint inventor	Daryl Wilde		
Inventor's signature		Date	
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	2014 Rachel Ridge (Street Address)		
Austin (City)	Texas (State or Country)	78613 (Zip Code)	

PAGE 24/25 * RCVD AT 11/28/2006 4:19:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/3 * DNIS:2736637 * CSID:5129966853 * DURATION (mm-ss):06-34

PTN TO REVIVE
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JC

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/302,130	11/22/2002	John Gehman	SC12547TK

CONFIRMATION NO. 9802

ABANDONMENT/TERMINATION LETTER

OC000000011911163

23125
MOTOROLA INC
AUSTIN INTELLECTUAL PROPERTY
LAW SECTION
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN, TX 78729

Date Mailed: 02/17/2004

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 01/02/2003.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282.Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

A copy of this notice MUST be returned with the reply.

Tequest Woldeyes
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

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Motorola Inc

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FREESCALE SEMICONDUCTOR LAW DEPARTMENT

DATE: November 28, 2006

TO: Examiner Hoang-Quan Ho

USPTO (571) 273-8711
(LOCATION) (FAX NUMBER)

Sonya Williams
(ADDRESSEE)

USPTO (571) 273-6637
(LOCATION) (FAX NUMBER)

FROM: Pat Thomas for Robert King (512) 996-6839
(SENDER) (EXTENSION)

TOTAL NUMBER OF PAGES 25 **(including this page)**

IF YOU HAVE ANY TROUBLE OR QUESTIONS WITH TRANSMISSION, OR HAVE RECEIVED IT IN ERROR, PLEASE CALL:(512) 996-6839

Docket No.: SC12547TK
Applicant: John Gehman et al.
Serial No.: 10/302,130
Art Unit: 2818
Filed: November 22, 2002

Enclosed per your request are copies of:

1.	x	1 page Notice of Abandonment
2.	x	22 page Petition for Revival & Supporting Documents submitted March 3, 2003
3.	X	1 page Notice Granting Petition

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE:

ON: _____ _____
Date **Signature**

FREESCALE SEMICONDUCTOR LAW DEPARTMENT
7700 W. PARMER LANE MD: TX32/PL02
AUSTIN, TEXAS 78729
Fax Number (512) 996-6854

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

MOTOROLA INC
AUSTIN INTELLECTUAL PROPERTY
LAW SECTION
7700 WEST PARMER LANE MD: TX32/PLO2
AUSTIN, TX 78729

COPY MAILED
MAR 1 8 2004
OFFICE OF PETITIONS

In re Application of	:	
John Gehman, et al.	:	
Application No. 10/302,130	:	ON PETITION
Filed: November 22, 2002	:	
Attorney Docket No. SC12547TK	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed January 2, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 3, 2003.

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

Received
MAR 2 6 2004
Law Dept.

PETITION FOR REVIVAL OF APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

DOCKET NO.:	SC12547TK
APPLICANT:	John Gehman et al.
TITLE:	DIGITAL AND RF SYSTEM AND METHOD THEREFOR
APPL NO:	10/302,130
FILE DATE:	November 22, 2002
MAILED:	February 26, 2004

1.	x	Return Postal Card
2.	x	2 page Petition for Revival of abandoned patent
3.	x	2 page Response to Notice of Abandonment
4.	X	1 page copy of Notice of Abandonment - Part 2
5.	X	1 page copy of fax transmittal sheet faxed on 3/3/03
6.	X	1 page copy of Response to Notice to File Missing Parts faxed on 3/3/03
7.	X	1 page copy of fee transmittal faxed on 3/3/03.
8.	X	1 page copy of Notice to File Missing Parts faxed 3/3/03.
9.	X	12 page copy of executed Declaration faxed 3/3/03.

JC/cc

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NOV 30 2006

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number SC12547TK

First Named Inventor:	John Gehman	Art Unit:	2811
Application Number:	10/302,130	Examiner:	
Filed:	November 22, 2002		
Title:	DIGITAL AND RF SYSTEM AND METHOD THEREFOR		

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

Note: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the Untied 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(I)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of a RESPONSE TO MISSING PARTS, Executed Declaration, Fee Transmittal
_____ (identify type of reply)

☒ has been filed previously on March 3, 2003

☐ is enclosed herewith

B. The issue fee of $ _____

☐ has been paid previously on _____

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137. 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 Office, 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.

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)(iii)(C) and (D))]

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.

2/23/04
Date

James L. Clingan
Signature

(512) 996-6839
Telephone Number

James L. Clingan, Jr.
Typed or printed name

Address

Address

Enclosures:
[X] Fee Payment
[X] Reply
[ ] Terminal Disclaimer Form
[ ] Additional sheets containing statements establishing unintentional delay
[X] Other: Response to Missing Parts & accompanying documents

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

[X] 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 data shown below to the United States Patent and Trademark office at (703) 308-6916.

2/26/04
Date

Elaine Cox
Signature

Elaine Cox
Typed or printed name of person signing certificate

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NOV 30 2006

DOCKET NO. SC12547TK

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S)	John Gehman	GROUP ART UNIT:	2811
APPLN. NO.:	10/302,130	EXAMINER:	
FILED:	November 22, 2002		
TITLE:	DIGITAL AND RF SYSTEM AND METHOD THEREFOR		

Certificate of Mailing

Date of deposit: 2/26/04

I hereby certify that this paper is being deposited with the United States Postal Service on the date indicated above, as first-class mail, with sufficient postage attached thereto, in an envelope addressed to the Commissioner for Patents, Alexandria, VA 22313.

Elaine Cox
Signature of Person Mailing Paper

Elaine Cox
Printed Name of Person Mailing Paper

RESPONSE TO NOTICE OF ABANDONMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Notice of Abandonment dated February 17, 2004, attached are:

1) copy of the Fax Transmittal Sheet dated March 3, 2003 which lists all the items faxed;
2) copy of the Response to Notice of Missing Parts of Application;
3) copy of the Fee Transmittal;
4) copy of the Notice to File Missing Parts;
5) Executed Declaration
6) copy of our Transmission Result Sheet showing all 17 pages went through;
7) copy of the Notice of Abandonment Under 37 CFR 1.53 (f) or (g).

In light of the fact that the documents were sent to your office in a timely manner, Applicants respectfully request that the Notice of Abandonment under 37 CFR 1.53 (f) or (g) be withdrawn.

If Applicant has overlooked any additional fees, or if any overpayment has been made, the Commissioner is hereby authorized to credit or debit Deposit Account 502117.

Respectfully submitted,

SEND CORRESPONDENCE TO:

Motorola, Inc.
Law Department

Customer Number: 23125

By: James L. Clingan, Jr.

James L. Clingan, Jr.
Attorney of Record
Reg. No.: 30,163
Telephone: (512) 996-6839
Fax No.: (512) 996-6854
Email: Jim.Clingan@Motorola.com

PAGE 7/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

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
10/302,130	11/22/2002	John Gehman	SC12547TK

CONFIRMATION NO. 9802

ABANDONMENT/TERMINATION LETTER

OC000000011911163

23125
MOTOROLA INC
AUSTIN INTELLECTUAL PROPERTY
LAW SECTION
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN, TX 78729

Date Mailed: 02/17/2004

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 01/02/2003.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282.Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

A copy of this notice MUST be returned with the reply.

Tequesta Woldeyes
Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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NOV 30 2006

MOTOROLA

FAX TRANSMITTAL SHEET

Motorola, Inc.
Law Department
Telephone: (512) 996-6839
Facsimile: (512) 996-6854

17 Number of Pages (including this page)

Date: February 28, 2003

To: Customer Service Center, Initial Patent Exam Division - 2811

Location: United States Patent and Trademark Office

Fax No.: (703) 872-9318

From: James L. Clingan, Jr. - 30,163

Subject: 10/302,130 - John Gehman

NOTICE: This facsimile transmission may contain information that is confidential, privileged, or exempt from disclosure under applicable law. It is intended only for the person to whom it is addressed. Unauthorized use, disclosure, copying or distribution may expose you to legal liability. If you have received this transmission in error, please immediately notify us by telephone (collect) to arrange for return of the documents received and any copies made. Thank you.

MESSAGE: Enclosed herewith, please find a Response to Notice to File Missing Parts of Application for filing in the below-identified application. If Applicant has overlooked any fees, or if any overpayment has been made, the Commissioner is hereby authorized to credit or debit Deposit 502117.

ALL ITEMS MARKED WITH AN "X" ARE INCLUDED:

1.	x	1 page Facsimile Cover Sheet
2.	x	1 page Response to Notice to File Missing Parts of Application
3.	x	12 page Executed Declaration Combined with Power of Attorney
4.	X	1 page Fee Transmittal (in duplicate)
5.	X	1 page Notice to File Missing Parts of Application

Paid by Deposit Account: 502117 $130 3/3/03 ec

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE:

ON: 3/3/03 Elaine Cox
Date Signature

PLEASE GIVE THESE PAPERS TO:

RECEIVED
CENTRAL FAX CENTER

NOV 30 2006

DOCKET NO.: SC12547TK

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	John Gehman
APPLICATION NO.:	10/302,130
FILED:	November 22, 2002
GROUP ART UNIT:	2811
TITLE:	DIGITAL AND RF SYSTEM AND METHOD THEREFOR

Certificate of Mailing

Date of deposit: 3/3/03

I hereby certify that this paper is being deposited with the United States Postal Service on the date indicated above, as first-class mail, with sufficient postage attached thereto, in an envelope addressed to the Commissioner for Patents, Washington, D.C.

Elaine Cox

Signature of Person Mailing Paper

Elaine Cox

Printed Name of Person Mailing Paper

Commissioner for Patents
Washington, D.C. 20231

Attention: Customer Service Center
Initial Patent Examination Division

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Sir:

Responsive to the Notice to File Missing Parts of Application dated SC12547TK, please find enclosed:

- ☒ 12 page Declaration Combined with Power of Attorney (2 declarations, 6 pgs. each)
- ☒ 1 page copy of Notice to File Missing Parts of Application
- ☒ 1 page Fee Transmittal (in duplicate)

The Commissioner is hereby authorized to charge all fees due to Account No. **502117.** A fee transmittal is enclosed.

Respectfully submitted,
John Gehman

By: James L. Clingan Jr.
JAMES L. CLINGAN, JR.
Attorney of Record
Reg. No.: 30,163
Telephone: (512) 996-6839

SEND CORRESPONDENCE TO:

Motorola, Inc.
Law Department
Customer Number: 23125

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NOV 30 2006

FEE TRANSMITTAL

Patent fees are subject to annual revision

TOTAL AMOUNT OF PAYMENT ($) 130

Complete If Known	
Application Number	10/302,130
Filing Date	November 22, 2002
First Named Inventor	John Gehman
Examiner Name	
Group Art Unit	2811
Attorney Docket No.	SC12547TK

METHOD OF PAYMENT

1. [X] The Commissioner is hereby authorized to charge indicated fees and credit any overpayment to:

Deposit Account Number: 502117

Deposit Account Name: Motorola, Inc.

[X] Charge Any Additional Fee required under 37 CFR 1.16 and 1.17

[ ] Applicant claims small entity status. See 37 CFR 1.27

2. [ ] Payment Enclosed:

[ ] Check [ ] Credit Card [ ] Money Order [ ] Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)		Fee Paid
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES

			Previously Paid**		Extra Claims		Fee from below		Fee Paid
Total Claims		-	20	=		X	18	=	
Independent Claims		-	3	=		X	84	=	
Multiple Dependent							280	=	

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	* Reissue independent claims over original patent
1205	18	2205	9	*Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)

**OR NUMBER PREVIOUSLY PAID, IF GREATER THAN STANDARD ALLOWANCE.
*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	
1051	130	2051	65	Surcharge – late filing fee or oath	130
1052	50	2052	25	Surcharge – late Provisional filing	
1053	130	1053	130	Non-English specification	
1812	2520	1812	2520	For filing a request for ex parte Reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1840*	1805	1840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1450	2254	725	Extension for reply within fourth month	
1255	1970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1510	1451	1510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1300	2453	650	Petition to revive - unintentional	
1501	1300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of IDS	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

* Reduced by Basic Filing Fee paid SUBTOTAL (3) ($) 130

SUBMITTED BY

Complete (if applicable)			
Name (Print/Type)	James L. Clingan, Jr.	Registration No. 30,163	Telephone (512) 996-6839
Signature	James L Clingan, Jr.	Date	3/3/03

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NOV 30 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/302,130	11/22/2002	John Gehman	SC12547TK

CONFIRMATION NO. 9802

23125
MOTOROLA INC
AUSTIN INTELLECTUAL PROPERTY
LAW SECTION
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN, TX 78729

Received
JAN 08 2003
Motorola Law Dept.

FORMALITIES LETTER

OC000000009324306

Date Mailed: 01/02/2003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

margaret

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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NOV 30 2006

Docket No. SC12547TK

DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63) COMBINED WITH POWER OF ATTORNEY

☐ Declaration Submitted with Initial Filing	☒ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16(e)) required)	Attorney Docket Number	SC12547TK
		First Named Inventor	John Gehman
		Application Number	10/302,130
		Filing Date	November 22, 2002
☒ Regular (Utility) Application	☐ Design application	Group Art Unit	2811
		Examiner Name	Unknown

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DIGITAL AND RF SYSTEM AND METHOD THEREFOR

the specification of which:

☐ is attached hereto

☒ was filed on: November 22, 2002

as U.S. Serial No.: 10/302,130

and was amended on: _____ *(if applicable)*

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent or inventor's certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application Number(s)	Country	Foreign Filing Date *(MM/DD/YYYY)*		Certified Copy Attached?
				☐ Yes ☐ No
				☐ Yes ☐ No

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

PAGE 13/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

Docket No. SC12547TK

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

Provisional Application Serial No.:	
Provisional Application Filing Date:	

I hereby claim the priority benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which is material to the patentability of this application and which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. Application(s):

☒ no such application(s) filed
☐ such application(s) identified as follows:

Application No.	Filing Date *(day, month, year)*	Status *(Patented, Pending, Abandoned)*

I hereby declare that: as to any claimed subject matter of this application which is common to my earlier United States or foreign application(s), if any, which I have identified above and claimed the benefit of priority thereof, I do not believe that the same was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the first of said earlier application(s), or in public use or on sale in the United States more than one year prior to the first of said earlier application(s), and that the said common subject matter has not been patented or made the subject of an inventor's certificate before the date of the first of said earlier U.S. application(s) in any country foreign to the United States on an application, filed by me or my legal representatives or assigns more than twelve months (six months if the present application is a Design patent application) prior to the first of said earlier U.S. application(s), if any; and that, as to any claimed subject matter of this application which is not common to said earlier application(s), if any, I do not know and do not believe that the same was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States more than one year prior to the date of this application, and that said subject matter has not been patented or made the subject of an inventor's certificate in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months (six months if the present application is a Design patent application) prior to the date of this application:

I hereby appoint the attorney(s) or agent(s) associated with: Customer Number 23125 to prosecute this application and transact all business in the patent and trademark office connected therewith.

Address all telephone calls to:

James L. Clingan, Jr.
Telephone: (512) 996-6839
Facsimile: (512) 996-6854

Address all correspondence to: Customer Number 23125

PAGE 14/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

Docket No. SC12547TK

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first-named or sole inventor	JOHN GEHMAN		
Inventor's signature	John B. Gehman	Date	FEB 5, 2003
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	116 Schooner Drive (Street Address)		
Austin (City)	Texas (State or Country)	78738 (Zip Code)	

Full name of second-named joint inventor	BRIAN H. CHRISTENSEN		
Inventor's signature		Date	
Residence	Dybvad (City)	Denmark (State or Foreign Country)	
Citizenship	Denmark (Country)		
Post Office Address	Aalborgvej 309 (Street Address)		
Dybvad (City)	Denmark (State or Country)	9352 (Zip Code)	

PAGE 15/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

Docket No. SC12547TK

Full name of third-named joint inventor	JAMES H. KLEFFNER		
Inventor's signature	James H. Kleffner	Date	2-21-03
Residence	Leander (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	15747 Booth Circle (Street Address)		
Leander (City)	Texas (State or Country)	78641 (Zip Code)	

Full name of fourth-named joint inventor	ADDI B. MISTRY		
Inventor's signature	Addi B. Mistry	Date	2/21/03
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	9255 Scenic Bluff Drive (Street Address)		
Austin (City)	Texas (State or Country)	78733 (Zip Code)	

PAGE 16/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

Docket No. SC12547TK

Full name of fifth-named joint inventor	DAVID PATTEN		
Inventor's signature		Date	05 FEB 2003
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	8810 Peppergrass Cove (Street Address)		
Austin (City)	Texas (State or Country)	78745 (Zip Code)	

Full name of sixth-named joint inventor	JOHN ROHDE		
Inventor's signature		Date	
Residence	Ega (City)	Denmark (State or Foreign Country)	
Citizenship	Denmark (Country)		
Post Office Address	Skaering Parkvej 53 (Street Address)		
Ega (City)	Denmark (State or Country)	8250 (Zip Code)	

PAGE 17/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

Docket No. SC12547TK

Full name of seventh-named joint inventor	Daryl Wilde		
Inventor's signature	Daryl Wilde	Date	2/4/2003
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	2014 Rachel Ridge (Street Address)		
CEDAR PARK Dec 2/4/2003 Austin (City)	Texas (State or Country)	78613 (Zip Code)	

PAGE 18/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

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NOV 30 2006

Docket No. SC12547TK

**DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)
COMBINED WITH POWER OF ATTORNEY**

☐ Declaration Submitted with Initial Filing	☒ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16(e)) required)	Attorney Docket Number	SC12547TK
		First Named Inventor	John Gehman
		Application Number	10/302,130
		Filing Date	November 22, 2002
☒ Regular (Utility) Application	☐ Design application	Group Art Unit	2811
		Examiner Name	Unknown

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DIGITAL AND RF SYSTEM AND METHOD THEREFOR

the specification of which:

☐ is attached hereto

☒ was filed on: November 22, 2002

as U.S. Serial No.: 10/302,130

and was amended on: _____ *(if applicable)*

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent or inventor's certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed::

Prior Foreign Application Number(s)	Country	Foreign Filing Date *(MM/DD/YYYY)*		Certified Copy Attached?
				☐ Yes ☐ No
				☐ Yes ☐ No

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

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Docket No. SC12547TK

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

Provisional Application Serial No.:	
Provisional Application Filing Date:	

I hereby claim the priority benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which is material to the patentability of this application and which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. Application(s):

☒ no such application(s) filed
☐ such application(s) identified as follows:

Application No.	Filing Date *(day, month, year)*	Status *(Patented, Pending, Abandoned)*

I hereby declare that: as to any claimed subject matter of this application which is common to my earlier United States or foreign application(s), if any, which I have identified above and claimed the benefit of priority thereof, I do not believe that the same was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the first of said earlier application(s), or in public use or on sale in the United States more than one year prior to the first of said earlier application(s), and that the said common subject matter has not been patented or made the subject of an inventor's certificate before the date of the first of said earlier U.S. application(s) in any country foreign to the United States on an application, filed by me or my legal representatives or assigns more than twelve months (six months if the present application is a Design patent application) prior to the first of said earlier U.S. application(s), if any; and that, as to any claimed subject matter of this application which is not common to said earlier application(s), if any, I do not know and do not believe that the same was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States more than one year prior to the date of this application, and that said subject matter has not been patented or made the subject of an inventor's certificate in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months (six months if the present application is a Design patent application) prior to the date of this application.

I hereby appoint the attorney(s) or agent(s) associated with: Customer Number 23125 to prosecute this application and transact all business in the patent and trademark office connected therewith.

Address all telephone calls to:

James L. Clingan, Jr.
Telephone: (512) 996-6839
Facsimile: (512) 996-6854

Address all correspondence to: Customer Number 23125

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Docket No. SC12547TK

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first-named or sole inventor: JOHN GEHMAN

Inventor's signature _____ Date _____

Residence: Austin (City) Texas (State or Foreign Country)

Citizenship: United States (Country)

Post Office Address: 116 Schooner Drive (Street Address)

Austin (City) Texas (State or Country) 78738 (Zip Code)

Full name of second-named joint inventor: BRIAN H. CHRISTENSEN

Inventor's signature: Brian H Christensen Date: Feb. 13th 2003

Residence: ~~Dybvad~~ Oestervraa BHC 2/13-03 (City) Denmark (State or Foreign Country)

Citizenship: Denmark (Country)

Post Office Address: ~~Aalborgvej 309~~ Hjoerringvej 267 BHC 2/13-03 (Street Address)

~~Dybvad~~ Oestervraa BHC 2/13-03 (City) Denmark (State or Country) ~~9352~~ 9750 BHC 2/13-03 (Zip Code)

PAGE 21/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

Docket No. SC12547TK

Full name of third-named joint inventor	JAMES H. KLEFFNER		
Inventor's signature		Date	
Residence	Leander (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	15747 Booth Circle (Street Address)		
Leander (City)	Texas (State or Country)	78641 (Zip Code)	

Full name of fourth-named joint inventor	ADDI B. MISTRY		
Inventor's signature		Date	
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	9255 Scenic Bluff Drive (Street Address)		
Austin (City)	Texas (State or Country)	78733 (Zip Code)	

PAGE 22/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

Docket No. SC12547TK

Full name of fifth-named joint inventor	DAVID PATTEN		
Inventor's signature		Date	
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	8810 Peppergrass Cove (Street Address)		
Austin (City)	Texas (State or Country)	78745 (Zip Code)	

Full name of sixth-named joint inventor	JOHN ROHDE		
Inventor's signature	John Rohde	Date	13/2-03
Residence	Ega (City)	Denmark (State or Foreign Country)	
Citizenship	Denmark (Country)		
Post Office Address	Skaering Parkvej 53 (Street Address)		
Ega (City)	Denmark (State or Country)	8250 (Zip Code)	

PAGE 23/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

Docket No. SC12547TK

Full name of seventh-named joint inventor	Daryl Wilde		
Inventor's signature		Date	
Residence	Austin (City)	Texas (State or Foreign Country)	
Citizenship	United States (Country)		
Post Office Address	2014 Rachel Ridge (Street Address)		
Austin (City)	Texas (State or Country)	78613 (Zip Code)	

PAGE 24/25 * RCVD AT 11/28/2006 4:14:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738711 * CSID:5129966853 * DURATION (mm-ss):03-34

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JC

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/302,130	11/22/2002	John Gehman	SC12547TK

CONFIRMATION NO. 9802

ABANDONMENT/TERMINATION LETTER

OC000000011911163

23125
MOTOROLA INC
AUSTIN INTELLECTUAL PROPERTY
LAW SECTION
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN, TX 78729

Date Mailed: 02/17/2004

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 01/02/2003.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

---

*A copy of this notice **MUST** be returned with the reply.*

Tequest Woldeyes
Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

Received
FEB 2 3 2004
Motorola Inc

If the sum of $180.00 is due under 37 CFR § 1.17(p) pursuant to § 1.97, the Commissioner is hereby authorized to charge this fee, and any other fee necessary to make this submission timely, to the Deposit Account No. 20-0782/APPM/5351/BTP.

Respectfully submitted,

Keith M. Tackett
Registration No. 32,008
MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd., Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant(s)

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 9 2006

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS MI 48304-5086

In re Patent No. 6,872,407, NOTARIO ET AL
Issue Date: March 29, 2005
Appl No.: 10/302,166
Filed: November 22, 2002
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed May 30, 2006, 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.

William R. Dixon, Jr
Special Program Examiner
Technology Center 1600

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS T. AQUILLA
BROWN & MICHAELS, PC
400 M&T BANK BUILDING
118 N. TIOGA ST.
ITHACA, NY 14850

COPY MAILED

JUN 18 2004

OFFICE OF PETITIONS

In re Application of :
Sarah A. Calapini et al :
Application No. 10/302,169 : NOTICE
Filed: November 22, 2002 :
Attorney Docket No. DIZ-4

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 1761.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

OCT 19 2007

OFFICE OF PETITIONS

In re Application of :
Jonathan D. ZOOK et al :
Application No. 10/302,177 : DECISION ON PETITION
Filed: November 21, 2002 :
Attorney Docket No. 8303.0042-05 :

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 for failure to reply in a timely manner to the non-final Office action mailed February 19, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 20, 2003. A Notice of Abandonment was mailed on September 15, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed;
(2) the petition fee as set forth in 37 CFR 1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,540; and (3) an adequate showing that the entire delay was

unintentional. No terminal disclaimer is required as a condition for reviving this application.

This application is being revived solely for purposes of continuity. Therefore, as continuity has been established by this decision reviving this application, this application is again abandoned in favor of continuing Application No. 10/644,389, filed August 19, 2003.

As authorized, the $1,540 petition fee required by 37 CFR 1.17(m) will be charged to petitioner's deposit account. Although authorized, no fee will be charged to an extension of time. An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

APR 16 2005

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600**

WAGNER, MURABITO & HAO, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

In re Application of)
Madhukar Gaganam, et al.)
Application No. 10/302,261)
Filed: November 20, 2004)
For: **FIELD EMISSION DISPLAY BRIGHTNESS UNIFORMITY COMPENSATION SYSTEM AND METHOD**)

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 November 20, 2004

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:
LADAS & PARRY LLP
5670 Wilshire Boulevard, Suite 2100
Los Angeles, California 90036-0202

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

COPY MAILED

AUG 04 2008

OFFICE OF PETITIONS

In re Application of
Nikolic, et al.
Application No. 10/302,269
Filed: November 22, 2003
Attorney Docket No. 10078-701.503

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 12, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 3762 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3208.

Alesia M. Brown
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/302,269	11/22/2002	3762	800	10078-701.503	16	2

CONFIRMATION NO. 2314

CORRECTED FILING RECEIPT

66854
SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

OC000000030778726

Date Mailed: 08/04/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Serjan D. Nikolic, San Francisco, CA;
Hugh R. Sharkey, Redwood City, CA;

Power of Attorney: The patent practitioners associated with Customer Number 66854

Domestic Priority data as claimed by applicant

This application is a CIP of 10/212,033 08/01/2002 PAT 7,303,526
which is a CIP of 09/635,511 08/09/2000 ABN
which claims benefit of 60/147,894 08/09/1999

Foreign Applications

If Required, Foreign Filing License Granted: 01/10/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/302,269**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Device with a porous membrane for improving cardiac function

Preliminary Class

600

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

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OFFICE OF PETITIONS

In re Application of :
Nikolic et al. :
Application No. 10/302,269 : DECISION ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. 10078-701.503 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely and properly reply within the meaning of 37 CFR 1.113 to the final Office action mailed April 21, 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 timely obtained. Accordingly, the application became abandoned on July 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $270.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $65.00, one- month extension of time fee submitted with the petition on November 18, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3762 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions